

First, Do No Harm

How Educators and Police Can Work Together More Effectively
to Preserve School Safety and Protect Vulnerable Students

A CHHIRJ Policy Brief

by **Johanna Wald and Lisa Thureau**

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FIRST, DO NO HARM: HOW EDUCATORS AND POLICE CAN WORK TOGETHER MORE EFFECTIVELY TO KEEP SCHOOLS SAFE AND PROTECT VULNERABLE STUDENTS

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Introduction

A decade after police officers have become a ubiquitous presence in public schools across the country, their purpose and impact remain shrouded in mystery. The responsibilities, daily functions and goals of “school resource officers” (SROs) are often subject to very different interpretations by police and school officials within districts, and poorly understood by parents, students, and even the courts. There is surprisingly little data available about how they interact with school officials and students, or about the numbers, types and reasons for arrests and court summonses they make of students while deployed in schools.

Yet, the implications of a constant police presence in schools for students—particularly students of color, low-income students, and students with disabilities—are enormous. Studies show that these vulnerable populations are disproportionately suspended, expelled, arrested and summonsed to juvenile court for behaviors committed in schools.¹ Without clearer guidelines, laws, policies and practices protecting them, and without stronger oversight of administrators’ directives and police actions in school, these students are at heightened risk of being pushed out of school and needlessly thrust into the criminal justice system.

This policy brief offers recommendations for how school resource officers can be more effectively deployed in public schools. It provides an overview of how and why police moved in such critical masses into middle and high schools across the country, identifies studies that have examined some of the consequences of placing police in schools, and summarizes major findings from a series of interviews the authors conducted during 2008–2009 of police chiefs and school resource officers in 16 Massachusetts school districts. The last section of this brief offers recommendations for steps that we believe

schools, districts, and state legislatures can take to maximize the benefits of placing school resource officers in school, while reducing the likelihood of criminalizing student behaviors that should be handled more appropriately within the school environment.

Overview

Since the mid-1990’s, police have been deployed in public schools in unprecedented numbers. Often referred to as “School Resource Officers” (SROs), these law enforcement professionals have assumed a variety of roles that range from strict enforcers of disciplinary codes and laws, to “case workers,” to “keepers of the peace,” to “an extra pair of hands” for school administrators. The rapid increase in the numbers of officers placed permanently in school buildings, from an estimated 9,446 in 1997² to a current presence of approximately 17,000 nationally,³ came about through the convergence of several interrelated events and trends, including: (1) the availability of federal funds to support police in schools through the Community Oriented Policing Services (COPS) program; (2) high visibility shootings in schools, most notably Columbine in 1999, that created a wave of fear about violence in schools throughout the country, and harsh new “zero tolerance” policies in schools; and (3) aggressive “tough on crime” rhetoric about juveniles nationally, including the infamous use of the term “superpredator” to describe an anticipated⁴ wave of merciless youth offenders (with a highly racialized sub-text), and the passage of new laws stiffening penalties against them in every state.

These concerns conflated to create extensive school-based police involvement across the nation in the name of security. Many schools devoted increasingly large proportions of their resources and attention to containing the

violence and chaos they viewed as likely to occur when so many potential lawbreakers gather in one place.⁵ Not surprisingly, behaviors such as schoolyard scuffles, shoving matches, and even verbal altercations—once considered exclusively the domain of school disciplinarians—took on potentially sinister tones and came to be seen as requiring law enforcement intervention.⁶

In response, two camps quickly formed regarding this expanded role for police in schools. On the one hand, police officers, school and government officials, and many parents believed they were needed to squelch violence and crimes, and to keep schools safe and orderly. New York City Mayor Michael Bloomberg encapsulated this view when he beefed up police presence in “Impact Schools” in New York City. “We launched the Impact Schools initiative in order to put a stop to the culture of crime and disorder that was ruining the educational opportunities for our students.” Similarly, in another instance, when school officers were accused of unnecessary force, a police chief was quoted as saying: “School safety agents are the backbone of school security... They take front-line responsibility for keeping schools safe.”⁷

The other camp, composed of civil rights, legal and youth advocates, as well as parent and community organizations, expressed distress and concern about what they characterized as the growing criminalization of student behaviors that in the past would have been addressed through a call to parents or after school detention. Some have argued that officers’ and principals’ stated concerns about safety actually mask the true purpose of placing police in schools: to exclude youth who do not conform to behavioral, attitudinal or educational demands, or who may bring test scores down. They cite the enactment of new laws such as “Disrupting Public Schools” and “safety ordinances” that could be interpreted so broadly as to criminalize almost any student

misbehavior.⁸ One study, for example, examined data from several school districts in Florida and found that schools gave harsher punishments to low-performing students during “testing windows.” The authors concluded that school officials used “selective discipline” to “reshape the testing pool” in order to keep low-performing students home on testing days.⁹

Reports and Studies on Role and Impact of Police in Schools

Although data on school-based arrests are very difficult to obtain, the Advancement Project, the NAACP-LDF, Building Blocks for Youth, the ACLU, Applied Research Center, and individual scholars, including Jennifer Obidah, Victor Goode, Ronnie Casella, and Matthew Theriot have released reports or studies that document incidences of school-based arrests in specific schools and districts.¹⁰ In 2005, the Advancement Project’s report, *Education on Lockdown: The Schoolhouse to Jailhouse Track*,¹¹ examined the role of police in three school districts—Denver, Chicago, and Palm Beach County—and concluded that “schools are overreaching by inappropriately adopting law enforcement strategies that are leading students unnecessarily into the juvenile or criminal justice system.”¹² The Advancement Project has since created action kits and started a website to help community groups advocate for less punitive approaches to school discipline.¹³

The American Bar Association, in its reports on the effectiveness of juvenile justice systems in specific states, also expressed the concerns of several juvenile judges over the growing numbers of school-based court referrals. In a 2003 ABA report about Ohio entitled, *Justice Cut Short*,¹⁴ one judge complained that Ohio schools were trying to “dump” disciplinary cases into the courts: “There is a perception at least that when we started putting cops in schools that teachers took it as an opportunity

to use the cop for disciplinary issues...”¹⁵ Another ABA report on North Carolina found that disproportionate representation of minority students in the juvenile justice system was the result, in part, of the large numbers of referrals coming from schools. The report stated that “it was apparent that North Carolina school systems refer large numbers of juveniles to the juvenile court system, frequently in situations that could and should have been addressed by the school system itself...it was reported in one county that 2/3 of delinquency case complaints come from the public school system. Children as young as 6 and 7 are referred to court for issues that seem clearly to relate to special education status.”¹⁶

In 2003, the House of Delegates of the ABA voted to adopt the recommendation of its Commission on Youth at Risk urging schools and courts to “reduce criminalization of truancy, disability-related behavior, and other school related conduct.” The delegates, in recognition of the ABA’s extensive reporting on the racially disparate impacts of zero tolerance, resolved to urge “federal and state legislatures to legally define, and assure standardized on-going monitoring, reporting, and accountability for, measuring graduation rates, school dropout rates, school truancy, and disciplinary violations resulting in student suspensions and expulsions, with data disaggregated by race, disability and other disparately affected populations, and ensure that no group of students is disparately subjected to school discipline or exclusion.”¹⁷

More recently, the ACLU published a report in 2008 entitled, *Hard Lessons: School Resource Officer Programs and School-Based Arrests in Three Connecticut Towns*.¹⁸ It examined the School Resource Officer program in three schools in Connecticut and found serious structural flaws, including a lack of clarity about the role of SROs, and troubling racial disparities in the reasons for, and number of, students arrested. The report makes a series of

recommendations concerning clarifying program objectives, improving training, evaluation, and data collection, and reducing potential harm to vulnerable populations.

Another study, authored by Matthew Theriot and published in the *Journal of Criminal Justice*,¹⁹ provides some quantitative confirmation of the positions taken on both sides of this debate. Professor Theriot compared arrest rates at 13 schools with an SRO to those at 15 schools without an SRO in the same school district. He found that having an SRO in the building predicted a decrease in arrests for the most serious offenses, such as assault and weapons charges, but an increase in arrests for “disorderly conduct,” which are generally considered the most minor, and subjective, offenses committed by students in schools. Theriot’s findings would seem to support law enforcement claims that the presence of SROs may deter students from bringing in weapons or engaging in assaults in school, as well as arguments made by children’s advocates that the increased deployment of SROs in schools is leading to the criminalization of behaviors that could be handled more appropriately by school disciplinarians.

Increasingly, advocates’ efforts to restrict the discretion accorded to police to arrest students in school are meeting with success. After the release of its report, The Advancement Project worked with a community group, Padres y Jovenes Unidos, to rewrite Denver Public Schools’ disciplinary code and change practices. Among other changes, the code now stipulates that “referrals to the police are only available for the most serious misconduct.”²⁰

In June 2009, the Florida legislature passed a bill that sharply limits the offenses for which students can be arrested in school and requires all school districts to draw distinctions between students who “pose a real threat to the school and those who merely exercise bad

judgment.”²¹ It eliminates minor fist fights and other small offenses from those requiring notification to police. Connecticut recently passed a bill (not yet operational) that limits the offenses for which students can be suspended. In Clayton County, Georgia, Juvenile Judge Stephen Teske observed that far too many students were being referred to his court for minor misbehaviors in school. He spearheaded a successful effort to bring together police, school officials, and juvenile justice officials to rewrite school disciplinary codes so as to reduce court referrals. Judge Teske now provides technical assistance to other judges and organizations throughout the country seeking to undertake similar processes in their school districts. The Birmingham School District in Alabama recently adopted this approach to reform its disciplinary and policing strategies.

Major Findings from Massachusetts Study

Between November 2008 and May 2009, the authors conducted interviews with school police chiefs and school resource officers in 16 school districts in Massachusetts. We attempted to secure interviews in rural, urban and suburban districts from across the state. In addition, we requested school-based arrest data and Memoranda of Understanding (MOUs) between police and school systems from every district we interviewed. Unfortunately, record-keeping in this area is notoriously inadequate, not just in Massachusetts but across the country. None of the departments provide more than tallies, making it impossible to disaggregate arrests by race, sex, special education status, grade or school. In some departments, police do not differentiate between school-based arrests and other juvenile arrests. One large urban police department’s data collection system—in our judgment the best in the state—divided all collected data by month and school and provided daily tallies of arrests for different charges. But this was the exception rather than the rule. Finally, the

data we did receive typically document only arrests, and do not include summonses or referrals to clerk magistrates. While referrals to clerk magistrates usually have less serious consequences for students than arrests, they nonetheless thrust youths into the juvenile justice system, disrupt the educational process, and can accelerate their alienation from school and likelihood of dropping out.²²

Despite these limitations, there are a number of surprising and important findings that we drew from these interviews, summarized below:

1. Contrary to the assumptions of many, there is tremendous variation in approaches to school policing used by police officers and school districts.
2. The decision to arrest or issue a court summons rather than to use traditional school disciplinary measures is often based on subjective reasoning.
3. Officers maintain that placing SROs in the school building, rather than relying upon a “call for service” model, will *reduce* the number of school-based arrests over a period of time.
4. Many officers care deeply for, and express tremendous dedication to, students.
5. Officers’ lack of training is problematic.
6. Officers consider the use of clerk magistrate hearings (or other forms of diversion programs) to be more effective in changing student behaviors than immediate referral to juvenile court.

7. Officers uniformly perceive school administrators to be unschooled in criminal law.
8. SROs are expected to reflect and reify schools' views of their students.
9. There is little internal or external oversight of the work of SROs or examination of their overall effects on school climate.
10. As presently structured, accountability for misconduct is demanded solely of students.

1. Contrary to the assumptions of many, there is tremendous variation in approaches to school policing used by police officers and school districts.

At one end of the continuum, some departments espoused the authoritarian/zero tolerance approach in which surveillance and reports of misconduct, from fights to behavior considered “disruptive,” put youths at risk of arrest—whatever the context. On the other end, one SRO department openly proclaimed a “case worker” approach in which the officers viewed themselves as resources, and often as advocates, for youths and their families within the school system. Several SROs noted that they frequently recommended more lenient treatment of students than school officials, and often asked school officials to consider an incident within the context of a child’s entire life, rather than to take a rigid approach to behavioral code violations. For example, one explained: *“We got a call about a kid stealing sandwiches from the cafeteria. They [school administrators] want him arrested. We get there and talk to the kid and hear that he hasn’t eaten since yesterday.... we’re not going to arrest in those situations.”* In fact, this continuum of approaches

was observed even *within* some of the larger police departments and school systems.

The way in which SROs treated fist fights in school offers an example of these different approaches. Many officers recognized that fighting among teenagers is normal if not normative. But their responses to a test scenario varied greatly as a function of the extent to which they felt it necessary to implement a zero tolerance policy for fighting—policies derived from the school’s code or of their own making. Again, much of the decision was determined by context. Officers fairly routinely reported that school administrators’ and teachers’ responses to fights were “hysterical.”²³

All SROs surveyed were asked how they respond to the same scenario, in which two girls are fighting in a school hallway. During the course of the fight, one girl kicks the other. SROs come upon the fighting girls and separate them. The scenario explicitly involved kicking because such conduct often occurs during fights and can be charged as an assault and battery with a dangerous weapon, a “shod foot.” In Massachusetts, this charge is a felony and allows a principal to indefinitely suspend a student while charges are pending.²⁴ We noted two approaches to officers’ decision-making concerning this scenario. One officer characterized these as *giving you an opportunity for intervention or for suppression*. In one approach, the officers made an effort to *understand* the origins and larger context for the fight, and to consider various options for a response:

- Are the girls fighting in school to be safe?
 - These officers perceived that many fights occurred in school because youth hoped officers would referee the fights and break them up before they became dangerous.

- Are any of these girls known to be special education students or experiencing severe problems at home?
- Is anyone injured?
- What is the severity of the injuries?
- Don't I know you?
 - "Frequent flyers" (students who were frequently in trouble in school) got less benefit of the doubt and fewer opportunities to explain themselves or take advantage of [yet another] mediation option.
- What's the subtext of the fight?
 - Is one of these girls resisting gang recruitment? Is there a boy involved? Is there bullying? Is one girl a victim of the other?

In contrast, the officers following a strict zero tolerance approach thought about the incidents in the manner chiefs described as a "black and white street cop." This approach was characterized by an approach to *stop and control* the incident:

- The rule is no fighting in school:
 - Is this a first fight for the girls involved?
 - If so, clerk magistrate summons.
 - If not, arrest.
 - How severe is the fight?
 - Can we charge for assault and battery with dangerous weapon or aggravated A&B with serious bodily injuries?
 - Were weapons used?
- 2. The decision to arrest or issue a court summons rather than to use traditional school disciplinary measures is often based on subjective reasoning.**

The factors that determine whether a student is referred to the court (either through a summons or through an arrest) or subject only to school discipline are often defined by an officer's personality, a youth's demeanor and attitude, the extent of pressure put on the SRO by school officials, and the availability of alternatives for dealing with the youth. Several officers also told us that they made arrest decisions based upon what they knew about the student's family background and history. For example, one SRO explained his approach to dealing with a boy who threatened his girlfriend because she was receiving texts from other boys. He said that he knew the youth's family and that "the kid is basically raising himself. His parents both work two jobs and are never home."²⁵ The officer planned to call the boy's mother, arrange a home visit, and work with the school to refer the boy to an anger management class. Conversely, another officer explained to us that he was inclined not to give a young woman who had become disruptive at school the benefit of the doubt, in part because her family life was "a mess" and he knew she would not receive any guidance at home. It became clear that decisions about whether a student's behavior crossed into the "criminal" category were often based on the experiences and temperaments of the officers and predilections of school officials more than on any set of guidance or protocols they had received.

We also found that officers turned to law enforcement responses in the absence of other strategies or mechanisms in place in schools for dealing with student misbehaviors. For example, one officer described arresting a 10 year old boy for opening the front door to the school after he had been told repeatedly not to do so by the assistant principal. "*What else was there for me to do?... I had to arrest him. He was driving the A.P. berserk and not listening to any of us.*"

3. Officers maintain that placing SROs in the school building, rather than relying upon a “call for service” model, will reduce the number of school-based arrests over a period of time.

The SROs we interviewed in almost every district strongly insisted that, when a police officer operating on a “call for service” basis relies solely on a school administrator’s characterization of an incident, in conjunction with the administrator’s pressure to have the student removed from the school, the likelihood of arrest is greater. In schools where an SRO is a daily presence and member of the school community, the SRO, students, and administrators become more familiar and comfortable with one another, and arrests decrease, sometimes dramatically.

Unfortunately, we were unable to confirm these claims because of a lack of accurate data, available over several years, on school-based arrests in these districts. The study cited earlier in this brief, authored by Matthew Theriot, both supports and refutes this contention. Theriot found that the presence of an SRO does reduce arrests for serious offenses, such as assaults and weapons possession, but increases arrests for the more subjective, and minor, offense of “disorderly conduct.”

4. Many officers care deeply for, and express tremendous dedication to, students.

Officers counsel students, go the extra mile to meet with their families, and attend school dances and sports events. In one case, an officer organized a talent show to help students with low self-esteem find their voice and pride. The commitment of these officers was expressed in their willingness to use “non-incident” time to joke and talk with students in the hallways, cafeteria and gym. In some schools, the racial, ethnic, and class similarity between officers and students was a major source of bonding and

empathy. These SROs clearly felt this work was the highest form of “giving back,” which also appeared to reduce the number of arrests they made at school over time.

5. Officers’ lack of training is problematic.

Many officers take courses offered by the National Association of School Resource Officers (NASRO), but these are not required by the state or district. Moreover, NASRO instruction often focuses on “getting officers out of the patrol car and into the schools.” It tends to emphasize technical training, such as a review of laws determining whether *Miranda* warning must be given and the deployment of security devices and cameras within schools. The officers with whom we spoke did not receive training in mediation, basic de-escalation techniques, or in detecting symptoms and behaviors of youths who have been exposed to violence, trauma, or abuse. They rarely had any formal knowledge of, or training in, adolescent psychology or development, how to secure the respect and cooperation of youths, or on the behavioral precautions and protections that need to be taken with youths on Individual Education Plans (IEPs). In many schools, this lack of training limits the arsenal of strategies available to SROs to use in place of arrest or summons.

6. Officers consider the use of clerk magistrate hearings (or other forms of diversion programs) to be more effective in changing student behaviors than immediate referral to juvenile court.

The officers explained that many youths perceive that once they are referred to juvenile court, they have no incentive to behave well. If this finding is validated statistically, it has huge implications for keeping youth out of the formalized operations of the juvenile justice system, for encouraging the creation of more diversion programs (particularly ones that spare students suspension and lengthy absences from school) and for reducing the speed at which youths are placed on the track pushing them out of school and into the criminal justice system.

7. Officers uniformly perceive school administrators to be unschooled in criminal law.

Many SROs told us that they believe school administrators do not understand under what circumstances students may be arrested. They also frequently complained that teachers and administrators asked them to intervene in situations that were clearly school discipline matters. They commonly expressed the view that, when school officials and teachers failed to establish orderly environments, they turned too quickly to law enforcement solutions. This seemed particularly true in school systems where many of the teachers were relatively inexperienced. As one SRO summed it up: *“Over-using police leads to teachers losing authority and control over their classroom.”* Another noted that: *“We’re not going to arrest a kid for refusing to obey a teacher but that’s what they want us to do. We have to draw the line.”*

8. SROs are expected to reflect and reify schools’ views of students.

SROs are expected to accept school officials’ labeling of, and attitudes toward, certain students. We noted distinct differences between attitudes expressed by SROs in suburban and rural schools with largely homogenous white student populations, and those expressed by SROs assigned to urban schools with predominantly African American and Latino student bodies. SROs viewed suburban administrators as more protective of their schools’ reputations, to the point of ignoring or denying criminal activity in schools. In contrast, many believed that urban administrators were more likely to take a harder line on disciplinary code violations and were quicker to ask police to issue court referrals and arrests.

9. There is little internal or external oversight of the work of SROs or examination of their overall effects on school climate.

The lack of interest in collecting accurate or detailed data about school-based arrests and summonses by most police and school departments was striking. It is also worth noting that the Massachusetts Department of Education and the Executive Office of Public Safety seem equally uninterested in collecting, analyzing and making public this data. This gap in information makes it extremely difficult to contest or verify police claims about reductions in school-based arrests over time, and makes them vulnerable to claims that they are over-arresting or arresting in a biased manner. In most schools, neither SROs nor school officials give formal notification to parents and students of the existence of SROs, the scope of their role and powers in school-based activities, or students’ due process rights. In some schools, SROs and school officials meet regularly. In others, the relationship between police and school officials is entirely informal

and focused only on incidents. In only one of the 16 departments that we visited were officers given explicit protocols for their conduct in the schools. External review of school officials and SRO practices is conducted only by clerk magistrates and courts, which have no public reporting obligations.

10. As presently structured, accountability for misconduct is demanded solely of students.

The title “School Resource Officer” suggests that these professionals bring additional resources to a school environment. Our interviews suggest that, in fact, some SROs feel that one of their primary functions is to provide a caring adult and role model for students in school. However, in our observations, SROs rarely develop any resources beyond the traditional tools of law enforcement. School officials rely on SROs to address problematic behavior instead of expanding their repertoire of non-law enforcement responses (i.e. therapeutic, public health, restorative justice, peer mediation) to disruptive students and incidents. What this means is that, despite the best intentions of individual school resource officers, the presence of police reinforces and strengthens a school’s ability to exclude and remove problematic students, rather than secure additional resources and services to help them. Arguably, cities’ allocation of funding for police diminishes funding available for school-based counseling services. This process of exclusion and criminalization also transfers the burden of accountability and blame entirely to youths, without requiring any of the adults involved—the teacher, the principal, the SRO or the police chief—to assess or monitor his or her own role in creating environments that are not conducive to positive learning or respectful interactions.

Recommendations for Reforms

We must care and give to those in need whether they like us or not. Ineffective discipline is when we fail to be fair...The focus of discipline should be on creation of a corrective action plan rather than punishment for punishment’s sake. The plan should emphasize training and remediation along with more creative interventions designed to correct deficits in performance...²⁶

--Sheriff Lee Baca, Los Angeles
Sheriff’s Department Statement
on Education Based Discipline
for Police Officers

The following recommendations are predicated upon our acknowledgement that school resource officers have become an accepted fact in most schools. In general, we found that their presence enjoys widespread parental and community support. In the absence of large budget cuts to police departments, they are likely to remain fully engaged in most high schools, and many middle and even elementary schools, in the foreseeable future. Thus, we put forth suggestions that we believe will maximize the benefits and “resources” derived from their continued involvement in schools, capitalizing on the opportunity this offers for “training and remediation along with more creative interventions” for youth, while minimizing the potential for harm to vulnerable students.

Summary of Recommendations

1. Schools and SROs Should Clearly Define the Consequences of Certain Behaviors and Communicate Those Consequences to Students and Parents.
2. The Federal and State Departments of Education Should Mandate Better and More Comprehensive Data Collection About School Arrests and Summonses from School and Police Departments.
3. School Districts Should Mandate Community Oversight.
4. States and Districts Should Require More and Better Training for SROs.
5. Schools Should Replace Zero Tolerance with Graduated Sanctions and Implement Programs Aimed at Addressing Root Causes of Student Misbehavior.

1. Schools and SROs Should Clearly Define the Consequences of Certain Behaviors and Communicate Those Consequences to Students and Parents

In particular, they should identify those behaviors that may lead to arrest or court summons. Youths rarely understand, or are even aware of, the law and the consequences of their conduct. Indeed, officers often reported to us that students held many incorrect assumptions about criminal law and legal process. Further, in view of the level of discord among adults (including teachers, administrators, SROs, and the courts) about how to treat certain behaviors, it is clear that such distinctions

are highly subjective and no doubt confusing to youths. For these reasons, we strongly recommend:

- School districts should closely examine and follow the approach now in place in Denver, Colorado, Clayton County, Georgia and Birmingham, Alabama Public Schools. In those systems, an agreement has been worked out by all parties, and communicated to students and parents, that law enforcement intervention by means of either arrest or summons will be limited to certain offenses. Emphasizing an educational “teachable moment” and socializing role for SROs should be the focus of SRO involvement in such a model. It is essential that students and their families, school officials, and SROs are clear about what conduct will trigger police intervention and put students at risk of summons or arrest.
- The State Department of Education should mandate, as a key element of SRO programs, the creation of an explanatory guide and presentation on how school administrators and SROs will respond to particular behaviors and the consequences that students risk enduring. In our study, only five of the 16 police departments recognized that students need express notice and explanation of how both disciplinary rules and criminal law work in the school environment. In those schools SROs typically developed and implemented extensive orientation programs for the students to make clear “the rules of the house.” Greater clarity about what conduct will lead to an arrest in a school may also empower

youths and their parents to observe and challenge how the law and discipline are implemented in their schools.

- In the absence of such proactive measures by the school systems, Massachusetts advocates should consider bringing a legal challenge to the “disturbing school assembly” statute on grounds that it is constitutionally overbroad and vague.

2. The Federal and State Departments of Education Should Mandate Better and More Comprehensive Data Collection on School Arrests and Summonses From School and Police Departments

The data collected on school arrests and summonses in Massachusetts schools is inadequate and requires immediate attention. Given the potentially devastating impact of involving youths in the juvenile justice system, and evidence of “frivolous” or inappropriate school-based arrests (ranging from charging a youth with disturbing school assembly for refusing to take off his hat to charging a youth with assault and battery with a dangerous weapon for throwing a notebook in jest), it is critical that detailed and comprehensive data be kept by both the schools and the police about law enforcement intervention in school-based incidents. This data should include the age, race, sex, grade, and disability status of any student who is arrested or summonsed to court, a brief description of the incident precipitating the arrest, the name of arresting officer, and the school official or teacher who pressed for the arrest or summons. This data collection should be a required part of the MOUs that exist between all schools and police departments.

3. School Districts Should Mandate Community Oversight

A major weakness that we identified in most SRO programs is the lack of oversight of the use of police in school generally and officers’ actions specifically. Many SROs are dedicated and compassionate professionals who have defined their job so as to both keep schools safe and provide help and resources to students. Nonetheless, it is clear that too much discretion has been built into their jobs, which raises the very real risk that some SROs will over-arrest students, will target certain students for harsher penalties than others, and will insist upon a law enforcement solution to what should be a therapeutic response. Without appropriate oversight, the same applies for school officials, who may choose to use SROs inappropriately, to call officers to respond to what should be school disciplinary issues, and to use law enforcement intervention to “push out” certain students.

Thus, while maintaining confidentiality of individual students, we recommend that a community board that includes parents, youth advocates and social service providers regularly review all school-based incidents leading to law enforcement intervention to ensure that no abuses, racial profiling, or other targeting of certain students or groups of students is taking place. If, for example, one SRO or teacher or school administrator is responsible for most law enforcement referrals, then the Board will have an opportunity to flag this as a concern and address it. Similarly this community board could review the adequacy of information given to students and their families about the difference between an action that will receive discipline and one that could lead to an arrest.

Finally, just as schools which fare poorly on the MCAS are scrutinized, schools where more than 3% of the students have been arrested or summonsed by SROs should trigger an immediate audit by the state Department of Education and the Attorney General’s office. They should investigate the number of charges, the kinds of behavior being charged, the types

of students who are being charged, whether charges are being overused in certain schools and by certain school officials, and the use of alternative sanctions that will not result in criminal records.

4. States and Districts Should Require More and Better Training for SROs

School Resource Officers who interact daily with students—some of whom are deeply troubled—and make decisions that will profoundly affect their lives, need far more knowledge and training about: (1) adolescent development and psychology; (2) strategies for diffusing potentially volatile situations; (3) recognizing symptoms of trauma, abuse, and exposure to violence—and the behaviors such exposure tends to produce—in children and adolescents; (4) recognizing manifestations of students’ disabilities protected under federal and state disability laws; (5) the effects of poverty and concentrated community disadvantage on adolescents’ behavior; and (6) the short and long-term effects of court involvement, including detention, on the likelihood of recidivism and disengagement from school. The International Association of Chiefs of Police supports training to “improve police department/school relationships to be more effective, expanding the SRO role to provide non-traditional, in-school services.”²⁷ Many SROs have a strong instinctive and empathic understanding of the students they interact with, but their experience and gut-level understanding needs to be augmented with the latest and most current knowledge about adolescent psychology and development. These types of training are particularly important for SROs working in schools with large numbers of youths of color, immigrant youth, and youths living in poverty. Such training should be required by state legislatures for all police working in schools.

5. Schools Should Replace Zero Tolerance with Graduated Sanctions and Implement Programs Aimed at Addressing Root Causes of Student Misbehavior.

Schools should implement interventions and programs, such as Positive Behavioral Interventions Systems (PBIS), trauma-sensitive training, and restorative justice practices that replace zero tolerance with graduated sanctions and that aim to address root causes of student misbehaviors. Schools need to change their orientation away from punishment and back toward efforts to constructively change students’ behavior, and make use of “teachable moments.” Research clearly shows that students feel more “connected” to schools when they perceive their teachers to have high expectations for good behavior, demonstrate that they care, and implement discipline fairly and tolerantly.²⁸ A student’s sense of “connection” to school is associated with a host of positive outcomes, including reduced likelihood of engaging in violence, substance abuse or becoming pregnant. When school officials do implement these programs, it is important that they include SROs in any training or education offered to teachers and counselors. This will ensure that students receive a consistent approach to discipline from all adult members of the school community.

Conclusion

Clearly, police are here to stay in schools. In most districts, they enjoy strong external support. At least one study has confirmed that their presence seems to reduce the number of serious incidents, such as weapons possession, that occur in schools. Our interviews also suggest that many SROs care deeply about the students they oversee and strive to develop positive relationships with them. Often they become role models for these students, attend their athletic and social events, counsel them

informally, and even advocate on their behalf to school officials.

At the same time, there is an inherent danger in allowing a law enforcement approach to adolescent misbehavior trump an educational perspective. Police are trained to view certain incidents, such as shoving matches or food fights, as potentially dangerous or violent, where educators may see in these the “teachable moment.” We must remember that, historically, schools have played a “loco parentis” role and are well-positioned to effectively deal with these types of relatively minor disruptions through restorative justice, graduated sanctions, or public health approaches. These approaches ensure that students will face consequences for their actions and be required to make amends, but will also stay in school and out of the court system.

Referring a student to juvenile court or arresting him or her in school should be an action of last resort, made only when the student is a danger to him or herself or to the school community. These decisions, whether they are made by SROs or by school officials, should be subject to far more transparency and careful review than is currently the case. Such actions can permanently derail a student’s academic future, put him or her at risk of dropping out, create a stain on his or her permanent record, and increase the likelihood that he or she will be pushed deeper into the criminal justice system. At the very least, these encounters often traumatize youths and isolate them from the school community during a developmental period when their greatest need is for connections with healthy peers and adults.

Currently, students are being arrested too often in school because of larger systemic failures on the part of adults: failures to create healthy and positive learning climates, to provide mental health and health services, or to offer adequate

training in adolescent psychology, effects of exposure to violence, and classroom management techniques to teachers, school resource officers and other school officials. These failures can be rectified. Our recommendations are designed to ensure that the best aspects of the SRO programs—the feelings of comfort and security that they provide to parents and communities, the reduction in serious crimes, and the caring relationships that many of these professionals develop with students—are maintained, while the potential for abuse and unnecessary criminalization of vulnerable students are reduced.

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ENDNOTES

¹ For a summary of some of the studies citing disproportionality, see Pamela Fenning and Jennifer Rose, “Overrepresentation of African American Students in Exclusionary Discipline: The Role of School Policy,” in 42 *Urban Education* No. 6, pp. 536-538 (2007), published by Sage Publications. Available online at: <http://ue.sagepub.com/cgi/reprint/42/6/536.pdf>

² See Randall R. Beger, “Expansion of Police Power in Public Schools and the Vanishing Rights of Students,” 29 *Social Justice* No. 1-2, p. 122 (2002), based on a 2000 Bureau of Justice Statistics.

³ Estimate of NASRO—the National Association of School Resource Officers.

⁴ Notably, this incredibly politically popular prediction of juvenile crime, characterized by Alan Fox’s use of the term “superpredators,” did not

materialize. Juvenile crime plummeted 37% between 1993 and 2002, and continues to remain at its lowest levels since 1975. When proof of the lower rates of violent crime committed by juveniles was used to challenge Fox's characterization of youth as "temporary sociopaths" who would wage a "coming teen crime storm," Fox remarked in an interview with *USA Today* that he never meant "bloodshed" and admitted that his claim was "just trying to get attention." Mike A. Males, *Framing Youth: 10 Myths About the Next Generation*, Common Courage Press, 1999, at p. 87.

⁵ See Ronnie Casella, *Punishing Dangerousness Through Preventative Detention: Examining the Institutional Link between Schools and Prisons*, presented in 2003 at the Civil Rights Project conference on the School to Prison Pipeline. Available online at: <http://www.civilrightsproject.ucla.edu/research/pipeline03/research03all.php>

⁶ A recent report surveying arrests of youth, *Arresting Children*, found that while pre-teen and teen arrests for most offenses and especially violent offenses were far lower in 2006 than they were in 1980, they increased respectively 19.6% and 19.5% for simple assault. The data also showed that the majority of arrests for pre-teens occurred in school. This data may suggest that one of the long-term effects of expanding the role of SROs is an increase in the numbers of younger children arrested while in school for fist fights, shoving matches, and other behaviors that rarely warranted police intervention in the past. See Jeffrey A. Butts and Howard N. Snyder, *Arresting Children: Examining Recent Trends in Preteen Crime*, Chapin Hall Center for Children, University of Chicago, 2008. An example of the environment that led to the deployment of police in so many schools can be found in a *New York Times* article entitled, "After Shootings, Nation's Schools Add to Security," by David Firestone, *New York Times*, August 13, 1999. The article stated that "many students returning to school will find metal detectors and armed security guards at the door," and that these new policies "all are a direct reaction to the shootings this spring at high schools." Students in Massachusetts also returned to a police presence in their schools in the fall of 1999. See, "Local Schools Reopening with A Police Presence," by Robert Preer, *The Boston Globe*, Sept. 3, 2000, p. 1, "When students in the Boston suburbs return to school this year, many will greet not only teachers, principals, and classmates, but also their school police officer. Supported by a multimillion-dollar federal grant program, communities across Massachusetts and the nation are hiring armed, uniformed officers to work full time in public schools. In the past year, municipal officers have been assigned to the schools in East Bridgewater, Foxborough, Middleborough, Randolph, Weymouth, and the Whitman-Hanson and Bridgewater-Raynham regional school districts. Brocton has a 12-person school police force, which is separate from the city Police Department but which reports to Police Chief Paul F. Studenski. 'In the aftermath of the shootings at Columbine and in other places, law enforcement increasingly is being introduced in the public schools, especially in the suburbs,' said Jack Levin, a criminologist and director of Northeastern University's Brudnick Center on Violence."

⁷ See Jennifer Medina, "Safety Agents are Defended After Two Arrests at City School," *New York Times*, October 11, 2007.

⁸ See, for example, studies on Toledo's "safe school ordinance" by Victor Goode, and on effects of new "disrupting public schools" law by Jennifer Obidah, presented at the 2003 Civil Rights Project conference, The School to Prison Pipeline. Available at:

<http://www.civilrightsproject.ucla.edu/research/pipeline03/research03all.php>. Investigation into the extent of statutes similar to that of

Massachusetts General Law Chapter 272, Section 40, for "disturbing school assembly" located 13 similar statutes in other states: Arizona, A.R.S. Section 13-2911; California Education Code, Sec. 32210; Georgia, O.C.G.A. Section 20-2-1181; Iowa 718.3; Maryland, M.D. Code Education Section 26-101; Montana, M.C.A. 20-1-206; Nevada, N.R.S. 392.910; North Dakota, N.D.C.C. 15.1-06-16; Rhode Island, Gen. Laws 1956, Section 11-11-1; South Carolina, S.C.C.A. Section 16-17-240; South Dakota, S.D.C.L. Section 13-32-6; Texas, Texas Education Code Ann., Section 37.123; Utah, U.C.A. Section 53A-3-503 and 76-9-103.

Judith Browne of the Advancement Project, was quoted in an article in *The Nation* as saying: "We're seeing very minor conduct becoming a criminal act. Things a police officer might not arrest someone for in a bar fight, we're seeing schools calling in police to make arrests for....It could be a student who refuses to sit down in class, or the spitball," she said. "In addition to getting the three-to-five-day suspension, these kids are getting arrested." *Discipline and Punish: Zero tolerance policies have created a 'lockdown environment' in schools* by Annette Fuentes, *The Nation*, December 15, 2003.

⁹ See David N. Figlio, "Testing, Crime and Punishment," 90 *Journal of Public Economics Issues* 4-5, pp. 837-851, (May 2006). Available online at: <http://bear.cba.ufl.edu/figlio/crime.pdf>

¹⁰ See, for examples, studies presented at the 2003 Civil Rights Project conference, The School to Prison Pipeline. Available online at: <http://www.civilrightsproject.ucla.edu/convenings/schooltoprison/synopsis.php>

¹¹ Advancement Project, *Education on Lockdown: The Schoolhouse to Jailhouse Track*, March 2005.

Available online at: <http://www.advancementproject.org/reports/FINALEOLRep.pdf>

¹² *Ibid*, p. 9.

¹³ See <http://www.stopschooltojails.org>

¹⁴ American Bar Association Juvenile Justice Center, *Justice Cut Short: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings in Ohio*, March 2003. Available online at:

www.njdc.info/pdf/Ohio_Assessment.pdf

¹⁵ *Ibid*, Chapter 3.

¹⁶ American Bar Association Juvenile Justice Center, *North Carolina: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings*, October 2003, p. 6. Available online at:

<http://www.ncids.org>

¹⁷ American Bar Association, Commission on Youth at Risk, Commission on Homelessness and Poverty, Report to the House of Delegates, Recommendation 118B, 2003.

¹⁸ American Civil Liberties Union, *Hard Lessons: School Resource Officer Programs and School-Based Arrests in Three Connecticut Towns*, A Report of the American Civil Liberties Union and the ACLU of Connecticut, November 2008. Available online at:

<http://www.aclu.org/racialjustice/edu/37767pub20081117.html>

¹⁹ Matthew T. Theriot, "School Resource Officers and the Criminalization of Student Behavior," *Journal of Criminal Justice* (2009), p.280-287

²⁰ For more information, see <http://www.stopschooltojails.org/padres-jovenes-unidos-denver.html>

²¹ Florida Department of Juvenile Justice, Press Release, *Zero Tolerance Bill Passes Legislature*, May 1, 2009. Available online at:

<http://www.djj.state.fl.us/Communications/pr/2009/pr050109.html>

²² Notably, during the course of the study, police department's use of pre-arraignment diversion programs was mentioned only once.

²³ Consider, for example, the story of a fifth grader being interrogated after drawing a "picture in art class of an Internet game figure wearing a timer on his belt and a cartoon bubble over his head saying he had a bomb. School officials waited a full day before calling police and the Fire Department and conducting a two-hour interrogation of the 10-year-old without a parent present, said the boy's mother...No bomb was found, but the boy was suspended for two days." "When School Needs counter student rights: Questioning Raises legal issues for some," Kay Lazar, *The Boston Globe*, Mar. 27, 2008.

²⁴ Under Massachusetts General Laws Chapter 71 Section 37H1/2, principals may indefinitely suspend students charged with a felony, such as assault and battery with a dangerous weapon, the principal "for a period of time determined appropriate" or pending the conclusion of juvenile proceedings, if the principal deems the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school."

²⁵ *Id.*

²⁶ Los Angeles County Sheriff's Department, Leadership Message from Sheriff Lee Baca, #001 *Psychology of Discipline*, July 30, 2007.

²⁷ See International Association of Chiefs of Police, *Youth Violence Summit Recommendations*, December 28, 2001. Available online at: www.theiacp.org/PublicationsGuides/ResearchCenter/NationalPolicySummits/CMSDetail/tabid/398

²⁸ Clea A. McNeely, James M. Nonnemaker, Robert W. Blum, "Promoting School Connectedness: Evidence from the National Longitudinal Study of Adolescent Health," 72 *Journal of School Health* No. 4, pp. 138-46 (April 2002). Available online at: www.mnsc.state.mn.us/docs/school_climate/AddHealth_Study.PDF

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