



STUDENTS
— NOT —
SUSPECTS

*The Need to Reform School
Policing in Washington State*



Introduction

In December of 2015, Tucker, a 13-year-old Black student in Washington state, was arrested as a result of an incident that started when he mumbled a curse word to himself. Tucker’s teacher ordered him to go sit outside on a bench; when Tucker refused to go outside unprotected in the cold, his teacher called the school police officer.¹ The officer grabbed Tucker, slammed him to the ground, and as Tucker flailed, put his knee of the back of Tucker’s head. Tucker was then arrested and booked into juvenile detention. He was charged with the crimes of “disturbing school” and “disrupting a law enforcement officer.”

Thirty years ago, few schools would routinely use police to respond to such student discipline incidents.² Fewer than 100 police officers patrolled public schools in the late 1970s.³ Today, the lines between the education system and the criminal justice system are increasingly blurred. More than 24 percent of elementary schools and 42 percent of high schools nationwide have school police officers embedded in school campuses.⁴ These numbers are even higher for predominantly Black or Latinx⁵ schools, 51 percent of which have regularly stationed school police.⁶

As the numbers of police officers regularly stationed in schools has risen, so too have arrests in school. In districts around the country, police are regularly assigned or called to schools and have the full power of the criminal law to control students and their behaviors. In Washington, this includes the power to refer children for prosecution for the crime of “disturbing school.” In the 2013-2014 school year, the 100 Washington schools with the largest student enrollments reported referring over 3,400 students to law enforcement.⁷



*The ACLU of Washington believes that police officers should not be a regular part of the school environment. **STUDENTS, TEACHERS, AND SCHOOL STAFF DESERVE SAFE, QUALITY SCHOOLS**—but this cannot be accomplished by reliance on school policing.*



Regular police presence increases the likelihood that students will be arrested or prosecuted for misbehavior. Arrest is an inappropriate and ineffective way to address the causes of juvenile misbehavior. In-school use of traditional law enforcement tools (including arrest) helps create a “school to prison pipeline” where students are funneled directly from their schools into the criminal justice system. The school to prison pipeline not only harms students, it harms communities. Students who are arrested are more likely to drop out of school, less likely to graduate and more likely to be further involved in the juvenile and adult criminal justice systems.

School policing in Washington is largely unregulated; no state law or policy directly addresses the use of police in schools. No state agency systematically tracks police placement, program structure, or the impact on students. To investigate school policing in Washington, the ACLU reviewed public records from over 100 school districts, and spoke with parents, juvenile attorneys, police officers, educators, and community leaders. We found:

- School policing is widespread. **Eighty-four of Washington's 100 largest school districts have police officers assigned to schools** on a daily basis. In addition, even schools without police officers assigned to campus may call police to respond to incidents of routine student misconduct.
- School policing is costly. **Schools pay on average \$62,000 (and as much as \$125,000) per full-time equivalent officer per year.** This money that could be more effectively spent on counselors, teachers, and other student support services.
- Police officers have broad discretion in almost all Washington school districts to arrest students for minor misbehavior. **Having police in schools makes it more likely that students will be arrested.** Washington's school police programs often lack written guidelines distinguishing between student discipline matters and crimes. This is particularly troubling because Washington law makes it a crime to disturb school, exposing students to criminal prosecution for routine misbehavior.
- Few of the police officers assigned to schools are required to undergo training on how to work in schools. **Only 25 of the school/police contracts surveyed require police officers in schools to participate in any form of specialized training.** This fails to account for the fact that schools are educational environments that should not be policed like a normal beat.
- Few schools collect any data on officer activities, including arrests. **Only 14 school/police contracts require any form of data collection on officer activities.** This makes it hard for districts to assess the impact of police in school, including the effects on students' constitutional rights and any discriminatory impact on students of color or students with disabilities.
- School police are rarely accountable to students, parents, and teachers. Only one school district has a clear civilian complaint process to address officer conduct in schools. **In over 70 school districts, school officials have no clear role in supervising or evaluating police officers stationed in schools.** In 55 districts, school officials have no input in the hiring or selection of an officer to be assigned to schools.

The ACLU of Washington believes that police officers should not be a regular part of the school environment. Students, teachers, and school staff deserve safe, quality schools—but this cannot be accomplished by reliance on school policing.

On the contrary, school policing as currently practiced in Washington—with few guidelines and scant oversight—may even make schools less safe by alienating students from school and contributing to the school to prison pipeline. Rather than investing in police, schools should prioritize counselors, mental health professionals, social workers, teacher training and evidence-based programs to improve the school climate, schools can help students reduce routine adolescent misbehavior and address the underlying social causes that may be contributing to it.

This report documents and evaluates Washington’s school policing and recommends policies that schools, law enforcement, and the legislature should adopt to protect students and ensure safe schools.

The History of School Policing

Historically, schools had no special relationship with law enforcement and used police the way any other community member would: calling officers to respond to suspected criminal activity. Many schools, in Washington and across the country, continue to operate that way. Increasingly, however, schools have developed formal partnerships to place an officer in schools on assignment. These police officers, sometimes called “campus resource police officers” or “school resource police officers” are present on school campuses every day. Some are assigned to a single school as their particular “beat.” Other police officers are assigned to multiple schools, typically based in a high school, but also involved in middle and elementary schools. And some schools have a rotating patrol, where several police officers share the school deployment.

**IN THE PAST 20 YEARS,
SCHOOL-BASED POLICE OFFICERS HAS GROWN FROM**

0 → 17,000

OFFICERS STATIONED IN SCHOOLS NATIONWIDE

The use of these school-based police officers has grown significantly. In the past 20 years, their number has increased from virtually none to an estimated 17,000 police officers on school campuses nationwide.⁸ The increase is likely a result of several factors.⁹ First, the federal government has provided significant funds to support the presence of police in schools. For example, between 1999 and 2005, the federal COPS program awarded in excess of \$753 million to schools and

police departments to place police officers in schools;¹⁰ other grants are available through federal education programs.¹¹ Second, highly reported instances of school violence spurred moves to place police officers in schools. In one study, about 25 percent of schools reported that national media attention about school violence was the primary reason for school policing programs.¹² Third, schools have instituted a variety of harsh “zero tolerance” policies to respond to perceived student disorder or rowdiness, in line with a general “tough on crime” approach to juvenile justice.¹³ About 25 percent of law enforcement officers in a national survey cited school disorder (like rowdiness and vandalism) as the primary reason to assign an officer to schools.¹⁴

The rise in school policing cannot be attributed to a rise in dangerous crime in schools. Particularly in black and brown communities, school police have historically gone well beyond addressing serious criminal activity, instead targeting perceived disorder or rowdiness.¹⁵ Moreover, as a general rule, schools are safe places, and are safer now than they were 20 years ago. The numbers of students reporting being victims of crime at school actually decreased 82 percent between 1992 and 2014,¹⁶ consistent with an overall decrease in juvenile crime.¹⁷ There is also little empirical evidence that routine police presence promotes student safety.¹⁸

School Policing in Washington is Widespread & Costly

No state agency oversees or tracks school policing in Washington. The ACLU surveyed three sources of data to identify where and how police are present. First, we analyzed data from the U.S. Department of Education to identify which school districts report having a school police officer in 2013, the most recent year in which the data was reported. We followed up with public records requests to the 100 school districts in Washington with the largest enrollments, as well as smaller districts that self-identified as having police officers stationed in schools. This allowed us to confirm the continued presence of police officers in schools, and identify districts that either failed to self-report or that established their school police programs within the last 3 years. A list of districts surveyed is included in Appendix A. In addition, we reviewed reports of police calls for service to a limited number of schools that do not have police assigned on a daily basis. This enabled us to get a sense of where police are regularly present, and when police officers are called to schools.

A. NUMEROUS WASHINGTON SCHOOL DISTRICTS HAVE ASSIGNED POLICE OFFICERS

In Washington, school policing is prevalent. The models of policing vary by district and sometimes by school. It is clear, though, that police have a regular presence in many Washington schools.

A growing number of Washington school districts—84 of the state’s 100 largest school districts— have police assigned to schools on a daily

basis. Police are also routinely present in much smaller districts, including those with total K-12 enrollments as low as 500 students. Spokane employs its own police officers, who are specially commissioned law enforcement officers under the daily supervision of a school administrator who is also a former sheriff. In every other district we surveyed, police officers are stationed through formal or informal agreements with local law enforcement agencies and remain subject to the law enforcement chain of command.

84 **OF THE** **100**

LARGEST SCHOOL DISTRICTS HAVE POLICE PRESENCE



School policing occurs in every part of the state, and at every grade level. School police can be found in urban, rural, and suburban schools in every corner of Washington. Police can also be found in all types of schools, from large comprehensive high schools to small alternative schools. The majority of districts we surveyed primarily assign school police to middle and high schools. But, at least 26 school districts report having police routinely present in elementary schools.¹⁹

Nationwide, schools with high populations of low income students, or Black and Latinx students are more likely to have embedded school police.²⁰ There is some evidence of similar demographic disparities in school police placement in Washington state. We reviewed districts that assigned police to only particular schools at a grade level (for example, districts where police are present in some, but not all, high schools), comparing the demographics of schools with and without assigned police officers.²¹ Some of those districts assign police to schools with higher than average populations of students of color and low-income students. For example:

- **SEATTLE POLICE DEPARTMENT** places “School Emphasis Officers” in three of nine middle schools in the Seattle Public Schools. These three schools have student populations that are, on average, 77 percent students of color and 67 percent low-income, compared with a district-wide average of 38 percent students of color and 38 percent low income.
- **EVERETT SCHOOL DISTRICT** has police assigned to the three of five middle schools with the highest percentages of low-income students.
- **EDMONDS SCHOOL DISTRICT** reported having a police officer assigned to only one of five high schools. The school with an officer has the largest enrollment of students of color and low income students in the district.

- **CENTRAL KITSAP SCHOOL DISTRICT** has a police officer assigned to only one of three high schools, which is also the high school with the largest enrollment of students of color and low income students in the district.
- **WALLA WALLA PUBLIC SCHOOLS** has an officer assigned to its alternative high school, where 80 percent of students are low-income, but not to its comprehensive high school, where only 45 percent of students are low-income.

Some of these districts may have reasons for the disparate placement of police officers in schools that are not facially discriminatory. Nevertheless, parents, students, and community members may receive troubling messages from the placement of police in predominantly low-income schools or schools with significant concentrations of students of color. In particular, students and families may feel as if they are particularly targeted by school police. As one student in King County stated, “School seems like a prison. You have police. You have all these security guards. There are security cameras everywhere you go, in your class and even outside the bathroom. They treat you like you’re always about to do something. It feels like everyone has it out for you.”

Whether or not school district and law enforcement officials deliberately target particular schools, selective placement can be seen as another facet of the well-documented over-policing of communities of color and low-income communities.²² In addition, selective placement ensures that the impacts of policing are disproportionately concentrated in communities of color and low income communities.



SCHOOL SEEMS LIKE A PRISON. *You have police. You have all these security guards. There are security cameras everywhere you go, in your class and even outside the bathroom. They treat you like you’re always about to do something. **IT FEELS LIKE EVERYONE HAS IT OUT FOR YOU.***

- A King County student

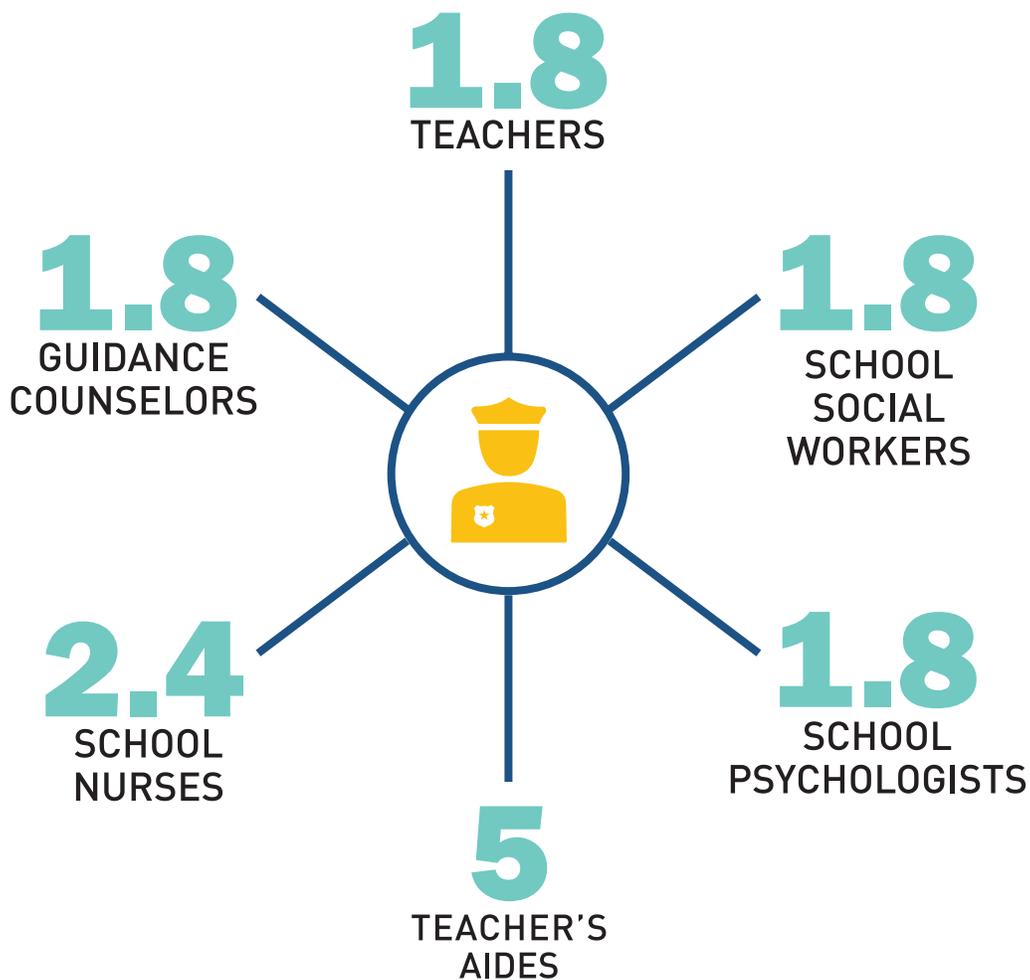


It is important to note that the statistics on school-based police officers do not fully capture officer interactions in schools. Even schools that do not have regularly assigned police officers may call the police to respond to routine student misconduct. For example, the ACLU reviewed police logs from a school district in rural eastern Washington that does not have police officers assigned to any school. Our review shows that the district’s high school, which has a population of less than 400 students, called the police approximately 4 times a month and an average of 39 times a year to respond to non-violent student misconduct, including theft, drug possession, and vandalism.

In addition, a number of districts in Washington have armed security guards, some in lieu of assigned school police and some in addition to police.²³ Contracts governing armed security police officers indicate that armed security police officers patrol schools and investigate offenses, but call law enforcement to make arrests or referrals to the prosecutor.

B. SCHOOL POLICING IS COSTLY

Washington schools spend significant resources on policing. All but 9 of the districts surveyed paid all or some cost of those police officers' salary and benefits.²⁴ The majority of the districts we surveyed paid 50 percent or more of the total cost of stationing an officer in school. Seventeen school districts paid the entire cost of school police, covering the officer's salary and benefits for the school year. Two school districts even leased the officer's patrol car.



Among the districts that paid any part of an officer's salary, the average school district contribution per officer per year was approximately \$62,000,^{25,26} but the total costs to individual districts can be much higher. Throughout the state, school district contributions vary from \$10,000 to over \$120,000 per officer per year. At least 7 school districts pay \$100,000 or more per officer per year.²⁷ For districts with multiple police officers, this adds up quickly. For example, in the 2014-2015 school year, public records indicate that the Spokane School District paid over \$1 million in salary and benefits for its school police officers.²⁸ The Kent

School District paid nearly \$500,000 in salary to school police officers in the 2015-2016 school year.²⁹

School district spending on police necessarily reduces the amount available for other resources. For example, a district that pays \$100,000 toward the cost of a school police officer could have used that same money to hire 1.8 teachers, 1.8 guidance counselors, 1.8 school psychologists, 1.8 school social workers, 2.4 school nurses, or 5 teacher's aides.³⁰

Misbehavior as a Crime: PROSECUTING STUDENTS FOR SCHOOL DISCIPLINE INCIDENTS

Very few districts in Washington provide any substantive guidance on the types of matters in which police officers should be involved. This creates unfettered discretion to use police in schools as a super-disciplinarian,³¹ heightening the risk of unnecessary arrest and prosecution of students.³² Excessive reliance on school-based law enforcement officers can also promote distrust in schools,³³ reducing student respect for in the authority of school administrators and making students feel alienated.³⁴ In turn, this can promote, not curb, misbehavior.³⁵ The routine use of police to address student misbehavior can make schools less safe, because policing can alienate students from adults and undermine trusting relationships. Washington law and policy should place clear limitations on when and how school officials call police to respond to student misbehavior.

A. CRIMINALIZING MISBEHAVIOR AT SCHOOL

Research demonstrates that regular law enforcement presence in school tends to lead to higher rates of student arrest, particularly for low-level issues like disorderly conduct or disturbing school, even controlling for other variables like neighborhood violence and demographics. One study showed that after officers were regularly assigned to schools, arrest rates for disorderly conduct dramatically increased.³⁶ Another study showed that when police were assigned to schools, arrest rates for low-level assault (such as fighting) more than doubled.³⁷ In New York City, a school-police partnership initiative resulted in a 50 percent increase in the number of students cited or ticketed by police for noncriminal incidents after one year.³⁸ Lastly, a comprehensive review of a national dataset reveals that even after controlling for general levels of criminal activity in a neighborhood and other demographic variables, a police officer's regular presence at school increases the odds that school officials refer students to law enforcement for all offenses, including minor ones.³⁹

In Washington, both school administrators and school police generally have wide latitude to involve police officers in student discipline matters. There is no statewide law or policy standard on school policing, so each program is independently regulated, most typically by contracts or agreements between school districts and law enforcement agencies. In our review of 92 such contracts, we found that 21 Washington school/police contracts explicitly authorize police officers to enforce school

disciplinary plans, or otherwise “assist” school officials in disciplining students.⁴⁰ Another 37 make no mention of student discipline at all, leaving full discretion to teachers and police officers. This runs directly contrary to guidance from the United States Department of Education, which encourages jurisdictions to minimize student arrests and citations on campus and “explicitly articulate that [school police] should not administer discipline in schools.”⁴¹

BETTER POLICY: SPOKANE

Spokane Public Schools Procedure 6514 lays out specific guidelines for when a student will be referred to the criminal justice system. The procedure states that most times, student behavior should be addressed through restorative practices or corrective action. Students will be referred to the criminal justice system only with the approval of a supervisor and generally only for felony charges and limited misdemeanor offenses named in the procedure.⁴²

BETTER POLICY: ABERDEEN

The Aberdeen School District and Aberdeen Police Department contract states that “responsibility for the administration of school discipline shall be the duty of the District” except for certain serious and enumerated offenses, including physical attack on another that requires medical attention outside of the school health room, death, rape, robbery, arson, manufacture of an explosive device, theft above \$500, possession of a firearm or deadly weapon, possession of a controlled dangerous substance, gang related crimes, and hate crimes.

A number of school districts in Washington attempt to clarify officer roles by including in contracts a single sentence that the officer “should not act as a disciplinarian” and should instead investigate violations of the law. But, in Washington, **IT IS A CRIME TO DISTURB SCHOOL**. Thus, there is no legal line between school discipline and criminal activity. A simple statement that police officers are not to discipline students is insufficient to prevent criminalization of student misconduct. Appendices B and C to this report provide more comprehensive model policies to limit police involvement in student discipline.

RCW 28A.635.030 states that “any person” who “willfully create[s] a disturbance on school premises during school hours or at school activities . . . shall be guilty of a misdemeanor.” Under our state’s disturbing schools crime, any student misbehavior (from talking back to a teacher, to making an off-color joke, to throwing spitballs) could be treated like a crime.

A 2016 incident in South Carolina illustrates the risk of failing to clearly limit officer involvement in discipline. In a widely shared video, an officer was called into a classroom in Spring Valley High School in Richland after a student refused to put away her cell phone.⁴³ When the student failed to comply with the officer's directive, he dragged the student and her desk across the room, arrested the student, booked her, and charged her with a crime.⁴⁴ Another student who shouted at the officer to stop was also arrested, booked, and charged with a crime. Like many districts in Washington, the South Carolina district had a contract directing that law enforcement "shall not act as a school disciplinarian."⁴⁵ That language was rendered virtually meaningless because police officers were also allowed to take action whenever a law is violated. South Carolina, like Washington, makes it a crime to disturb school.

A number of Washington jurisdictions make use of the disturbing schools crime. The ACLU reviewed court data from the past 20 years and found over 800 cases where a juvenile was charged with disturbing school.⁴⁶ This indicates it is likely that some Washington students are being charged with crimes for disciplinary matters. Moreover, the charges for "disturbing schools" fail to capture the full extent of referrals to the criminal justice system for disciplinary incidents. Students could be charged with crimes for any number of routine adolescent behaviors. For example, a student who writes "School Sucks" on his desk could be charged with malicious mischief, for writing on another's personal property without permission of the owner. Students who get into a shoving match could be charged with assault. While these behaviors violate school rules, they shouldn't become matters for the criminal justice system.

IN THE PAST 20 YEARS, THE ACLU FOUND

> **800 CASES**

WHERE A JUVENILE WAS CHARGED WITH DISTURBING SCHOOL

Policies that give complete discretion to refer a student for criminal prosecution leave students vulnerable to implicit racial bias. Studies show that teachers instructed to identify misbehavior are more likely to watch Black students than White students, even as early as preschool.⁴⁷ Black students are disproportionately disciplined for subjective behaviors like disobedience or disrespect.⁴⁸ Further, Black boys as young as 10 are also more likely to be perceived as older and more threatening than their peers.⁴⁹ This bias contributes to the documented disproportionate rates of arrest of black and brown students.⁵⁰

DISTURBING SCHOOL CASES

Washington students have been referred to the criminal justice system for behavior that is typical for adolescents and could safely have been handled at school. For example, students have been referred to prosecutors or charged with crimes for:

- **DISCHARGING FART SPRAY:** Caleb, a 15-year-old high school student in Asotin County, was charged with felony assault after he brought a bottle of fart spray to school. He sprayed the product in a hallway and the library at his school. The spray triggered breathing problems in another student. Caleb was charged with felony assault in the second degree and disturbing schools, and was arrested by the officer embedded in his high school. The charges were later reduced to a misdemeanor, and Caleb agreed to write a letter of apology and split the hospital bill of the student who had breathing problems.
- **POURING CHOCOLATE MILK ON ANOTHER STUDENT:** A high school student in Pierce County was referred by school police to the prosecuting attorney on suspected charges of assault in the fourth degree after the student poured chocolate milk on another student in the school lunch room. The prosecutor declined to file charges in juvenile court.
- **THROWING A SINGLE PUNCH IN A SCHOOL PARKING LOT:** Esteban was charged with disturbing school activities after he threw one punch at a fellow student in the parking lot of a school in Walla Walla County. Esteban was apprehended by the police officer embedded in his school, and was arrested despite the fact that he had never been involved with the criminal justice system before. He was convicted of disturbing school and sentenced to three days in juvenile jail, a sentence a court later overturned.

LAURA'S STORY

Students who aren't formally arrested or prosecuted may still be impacted when police officers use traditional law enforcement tools, like handcuffing or restraining students, to discipline them. For example, in 2015, Laura was called to her son's elementary school in King County because he was having behavior problems. Laura's son has been diagnosed with attention deficit hyperactivity disorder and anxiety. When Laura arrived in her son's classroom, she found her 8 year old son handcuffed and restrained face down on the floor by two police officers. Her son was sobbing and had urinated on himself. He was unable to calm down due to the continued restraint and ended up being hospitalized. After that incident, Laura's son was so traumatized that he refused to return to his school.

B. THE NEGATIVE IMPACTS OF CRIMINALIZING STUDENTS

Arrests have terrible consequences for students. A first-time arrest doubles the odds that a student will drop out of high school, and a first-time court appearance quadruples the odds.⁵¹ One study found that only 26 percent of students who were arrested graduated from high school, as opposed to 64 percent of their peers; arrested students were also half as likely to enroll in a four-year college.⁵² Young people who drop out of school in turn have lower income and lifetime earnings than their peers.⁵³ Juvenile arrest also increases students' chances of future imprisonment: young people with an arrest record are subject to greater surveillance and harsher discipline from police and other adults that significantly increases their chances of arrest.⁵⁴

Arrest can have particularly negative consequences for students who are non-citizens. Schools have a legal obligation to educate all students, regardless of immigration status.⁵⁵ If a student is arrested by campus police, his or her fingerprints may be submitted to the FBI and then to Immigration and Customs Enforcement.⁵⁶ Under executive orders and implementing memoranda promulgated in January 2017, non-citizens who have been accused (but not convicted) of a crime are considered a priority for deportation.⁵⁷ Thus, non-citizen students who are arrested by school police—whether or not they entered the United States with legal status and whether or not they are charged with or convicted of a crime—could face the harsh sanction of deportation or inability to naturalize as United States citizens.

In addition, there is evidence that all students suffer in highly punitive or policed schools. Students in schools with “zero tolerance” or other harsh discipline policies report feeling less connected, less trusting, and less engaged in their schools.⁵⁸ While some police officers do work to build connections between students and police, those efforts are too often driven by an individual officer's personality rather than the structure or expectation of school police programs.

Washington's school districts must draw a clear line between adolescent misconduct and criminal behavior. In particular, school districts should adopt policies that direct teachers and administrators to call law enforcement only for incidents that pose a risk of or involve serious physical harm. All other incidents should be handled by school administrators. The policies should also direct police officers to de-escalate situations whenever possible, and be reflected in agreements between law enforcement and schools.

Policies that limit the role of school police in discipline can lead to a significant drop in arrest and referrals of students. One district that implemented clear policies saw referrals drop by more than 50 percent, with no change in reported instances of student victimization.⁵⁹ Another district reported an 88 percent drop in student arrests after implementing policies limiting police involvement in minor disciplinary incidents.⁶⁰

JACOB'S STORY

Jacob was 12 years old when he had a negative interaction with a school police officer that led to felony charges. Jacob is a student in Snohomish County who has disabilities, including mental health issues. One day, he had a breakdown in class that led to him knocking over chairs in his classroom while yelling and being verbally aggressive to his teachers. The teachers called the school police officer and Jacob's mother, who rushed to the school to help deescalate the situation. The officer and teachers pinned Jacob to the ground outside his school's de-escalation room. During the struggle, Jacob spit on the officer and teachers. When his mother arrived, Jacob was able to calm down and go home with her. The school did not suspend or expel Jacob, concluding that his behavior was related to his disability. Nevertheless, the school police officer filed a police report. Jacob was later charged with felony assault for spitting on the officer and misdemeanor assault for spitting on his teachers. As Jacob's mother explained, "I worry about sending Jacob to school now. What if every time he has a meltdown, the school treats him like he's a criminal or a bad person? The school police officer doesn't treat him like he has a mental illness. Filing charges tells my son that he's a criminal, and that he's a bad person, when he has a disease. I don't want school to be the thing that sends him to jail."

C.SEARCH AND INTERROGATION: BLURRING THE LINES BETWEEN EDUCATORS AND LAW ENFORCEMENT

Routine law enforcement presence in schools can also undercut students' constitutional and statutory rights to privacy and to avoid self-incrimination.

1. Searching Students

Both the United States Constitution and the Washington Constitution guarantee the right to be free from unreasonable search and seizure. Students in public schools have a legitimate expectation of privacy in the personal belongings they bring to school, such as backpacks.

Educators who are tasked with providing a safe learning environment may search student belongings brought to school if the educator has a reasonable and individualized suspicion that the search will turn up evidence of a violation of schools rules.⁶¹ Generalized, "dragnet" style searches are not permissible.⁶² School police, on the other hand, cannot search student belongings without a warrant or a legally recognized exception to the warrant requirement.⁶³ In both instances, the searches may be unconstitutional if they are too intrusive.⁶⁴

The distinction between educators and police is blurred when police officers are routinely in schools. For example, 4 school/police contracts state that police officers "shall" accompany educators who are conducting searches of students; either in all cases or in particular cases. Under such

circumstances, educators may be implicitly directed or encouraged to conduct searches for police officers, thus circumventing the requirement that police officers obtain a warrant before searching students. In addition, when a student is searched by both school officials and police officers, it may shift the student's perception of his or her relationship to school, increasing distrust.⁶⁵ In fact, the vast majority of the school/policing contracts and school policies we reviewed failed to clarify the role of educators and police in searching students.

School and police contracts should clarify that police officers will only search students if the officer has a warrant, or when the officer is acting under a recognized exception to the warrant requirement. Police officers should not generally accompany school officials conducting searches for school purposes; in cases where there is a real and immediate threat of serious physical harm connected with the search, the officer may accompany a school official under the emergency exception to the warrant requirement. School policy should clearly reflect the difference between searches conducted by school officials for educational purposes, and searches by law enforcement officials. Appendix E to this report provides model policy language that schools can use to govern officer questioning, search, and arrest of students.

BETTER POLICY

The agreement between the Prosser School District and the Prosser Police Department acknowledges that police officers “cannot conduct a search at the school without obtaining a search warrant, absent the existence of a legally acknowledged exception.”

2. Student Interrogation

Students have the right to remain silent when questioned by police. If a student is suspected of a crime and reasonably believes he or she is not free to end the conversation with police, a police officer cannot question the student until the officer has provided the student with developmentally appropriate warning of his or her right to remain silent.⁶⁶ These laws protect young people, who are particularly vulnerable to suggestive police questioning, from the serious consequences that can flow from saying the wrong thing in an interview with an officer.⁶⁷ Young people may be particularly vulnerable to police officers who are routinely present on campus and occasionally function as a teacher or advisor.

Some school police contracts deliberately blur the line between law enforcement and educators in questioning students. Oak Harbor School District, for instance, has entered into a contract with the Oak Harbor Police Department directing that “when appropriate and feasible,” the school and police will conduct joint interviews of students in matters that may involve both school discipline and potential criminal charges.⁶⁸ The policy does not require police officers to inform students of their constitutional right to remain silent. This could create confusion for

students about whether they are required to answer questions (and thus potentially mitigate or avoid school disciplinary action) or whether they can or should exercise their right to remain silent.

School/police contracts should clearly delineate that police officers are required to provide warnings of the right to remain silent whenever a student is being interviewed in connection with behavior that could be a crime. In addition, every district should adopt policies that prohibit police questioning of students younger than 12 years of age without a parent or guardian present. For older students, parents must be notified of any potential law enforcement interview of students over 12 and be given a reasonable opportunity to be present before the interview begins. Appendix E to this report provides model policy language that schools can use to govern officer questioning, search, and arrest of students.

BETTER POLICY

Seattle Public Schools policy 4310SP states that “as a general rule, interviewing students should take place at the agency or the student’s home.” It creates different standards for students who are victims, witnesses or suspects to a crime and in many cases requires a school official to be present during law enforcement interviews. It goes on to state that “student suspects under twelve may only be interviewed with parent/guardian consent” and requires principals to “make a reasonable effort to notify the parent/guardian of the interview” for students over the age of twelve.

A Learning Alternative: STUDENT SUPPORTS AND SCHOOL CLIMATE

Washington’s schools should better invest financial resources in solutions that address the underlying reasons behind student misbehavior or negative school climate. Police may play a role in protecting students in crisis situations or from threats of violence outside school.⁶⁹ However, schools do not need police to manage internal disorder, improve negative school climate, or respond to student misbehavior.

Adolescent misconduct is simply not the same as criminal behavior. Adolescents can engage in risky or defiant behavior simply due to the lack of mature development of the parts of the brain that facilitate self-regulation.⁷⁰ Teachers may be more likely to attribute misbehavior to students of color, due to implicit bias.⁷¹ Students who have been exposed to trauma may interact differently with their school environments in ways that can be interpreted as misbehavior.⁷² And students with disabilities may require additional behavioral supports to reinforce positive behaviors.⁷³ Regardless of the underlying reasons, schools can implement successful systems to improve school climate, school safety, and academic achievement for all students.⁷⁴

Among valuable personnel are counselors, school psychologists, nurses, teacher’s aides, behavioral interventionists, and school social workers

trained to identify the causes of negative school climate or student misbehavior and provide resources that support students and keep them in schools. Yet there are too few school social workers, counselors, and other student support professionals in the state. For example, in Washington, each counselor is responsible, on average, for 520 students, far outstripping the nationally recommended ratio of 250 students per counselor.⁷⁵ The state funds a fraction of these positions.⁷⁶



*I think the best thing we can do is **MAKE SURE TEACHERS ARE ABLE TO WORK WITH OUR STUDENTS** in a trauma informed way. We do our best at home to help our children and want the same at school.*

*Safety is having people you can talk to, people that are, you know, available. **WE NEED OUR SCHOOLS AND THEIR ADMINISTRATORS TO DO MORE** and not put it all on the police.*

- A parent in Yakima County



School-wide positive climate systems can also play a significant role in reducing incidents of student misbehavior and promoting engagement with school. Teachers and students report feeling safer in schools that have consistent and positive cultures and that provide targeted behavioral interventions for struggling students.⁷⁷ Some of the approaches being successfully implemented in schools in Washington and across the country include:

- **RESTORATIVE JUSTICE OR RESTORATIVE PRACTICES:** Restorative practices is an approach that emphasizes relationships, bringing together all affected by an action to address the needs and responsibilities of all involved, repair harm, and rebuild community.⁷⁸ Schools that implement restorative practices create more positive relationships between students and teachers and a better school environment overall. This typically leads to higher academic success, better attendance, and lower drop-out rates.⁷⁹
- **SCHOOL-WIDE POSITIVE BEHAVIOR INTERVENTIONS OR SUPPORTS (PBIS):** Schools that implement PBIS explicitly teach shared behavior expectations and positively recognize students who meet those expectations. PBIS also uses data-based decision making and analysis, and increasing levels of support for students with higher-level behavioral, emotional, and mental health needs. Research has shown that the implementation of school wide PBIS results in better student behavior and thus fewer disciplinary incidents and suspensions.⁸⁰ This in turn leads to a better school climate and higher academic achievement and attendance rates.⁸¹
- **SOCIAL EMOTIONAL LEARNING:** Social Emotional Learning (SEL) specifically teaches students emotional and social skills in an academic setting. SEL programs teach social and self-awareness, decision-

making, self-management, and cooperation and communication in relationships. Research has shown that SEL leads to a reduction in problem behaviors like physical aggression and disruption. These in turn lead to an increase in academic achievement and graduation rates as well as a general more positive attitude towards school.⁸²

- **TRAUMA-SENSITIVE SCHOOLS:** Trauma-informed or trauma-sensitive schools seek to respond to students who have been exposed to trauma in a way that does not exacerbate behavioral issues. Instead trauma-sensitive schools offer resources such as classes on coping with stress, support groups, and more intensive services to address behavioral health needs. Research shows that trauma-sensitive schools reduce violent incidents and discipline referrals from classrooms.⁸³ Case studies of trauma-sensitive schools demonstrate that a trauma-informed approach can result in massive decreases in suspension and expulsion rates. Other case studies have seen related rises in academic achievement and testing scores.⁸⁴

Each of these models demonstrate that schools can improve school climate and lessen student misbehavior. Washington's schools should invest in long-term preventative solutions, like counselors and evidence-based behavior systems, not police.

Training, Accountability, & Transparency of School Police

Whenever there are routine contacts between schools and law enforcement, the agencies should establish clear roles and protocols to govern their interactions. School districts and law enforcement agencies should adopt a comprehensive memorandum of understanding (MOU) that (1) establishes the reason for police presence in schools; (2) requires training necessary to mitigate the risk of officer presence in schools; (3) increases accountability and public reporting; and (4) clearly defines the types of behaviors or incidents where police officers should be called to respond. At least four school districts in Washington have police assigned to schools and no formal MOU or contract governing their relationship.

However, training and transparency alone do not eliminate concerns about daily school policing. Improving training and accountability for school policing can reduce the risks of violating students' constitutional rights, but it is not a substitute for a robust community discussion about whether and how police officers should be present in schools.

“

*At least three school districts in Washington **HAVE POLICE ASSIGNED TO SCHOOLS AND NO FORMAL MOU OR CONTRACT GOVERNING THEIR RELATIONSHIP.***

”

1. Training

Children are developmentally different from adults, and those differences have serious consequences when they interact with police officers. Generally, adolescents perceive, process, and respond to information differently than adults. Adolescents are more likely to respond defiantly to adult assertions of authority, particularly when peers are present.⁸⁵ In addition, significant numbers of adolescents have been exposed to trauma, which may complicate their interactions with police.⁸⁶ Mental health issues and disability can also influence young people's interactions with teachers and police officers.⁸⁷ In any given adolescent population, and particularly in schools, police officers should expect to interact with youth whose responses to police presence will be influenced by typical adolescent development and by factors such as trauma, mental health issues, and disability.

OF THE 92 SCHOOL & POLICE CONTRACTS REVIEWED:

25		required school police to have any specialized training.
9		required police officers to participate in trainings "on request."
6		additional districts offered to pay for training, but did not specify when or how training would be provided.
5		recognized any role for the school district in training police officers regularly present in those schools.
52		school & police contracts make no mention of specialized training.

Consequently, proponents of school policing programs agree that police officers should be thoroughly trained in how to work with youth.⁸⁸ In fact, 11 states require some form of school police training by statute.⁸⁹ The U.S. Department of Justice and Department of Education have recommended that police officers working in schools receive extensive training in bias-free policing, implicit bias and cultural competence, child and adolescent development, disability and special education issues, school climate improvement, restorative justice techniques, and privacy.⁹⁰

Washington law does not require any specialized training for school police. As a preliminary matter, Washington's Criminal Justice Training Academy offers 8 hours of training in juvenile justice, and offers no specialized training for school police officers.⁹¹ Thus, any training of school police officers would fall to local police departments and school districts. Our investigation reveals that few school/police contracts require any specialized training of police officers.

Of the 92 school/police contracts that the ACLU reviewed, only 25 required school police to have any specialized training.⁹² Another 9 required police officers to participate in trainings “on request” or “as required” by either law enforcement or school officials;⁹³ 6 additional districts offered to pay for training, but did not specify when or how training would be provided.⁹⁴ Moreover, only 5 school/police contracts recognize any role for the school district in training police officers regularly present in those schools. The other 52 school and police contracts make no mention of specialized training.

Even among districts that do require training, only 7 specifically required training in the needs of students with disabilities or students with mental health needs. None of the contracts that we reviewed required any training in implicit bias or best practices in student discipline.

Schools are specialized environments, and specialized training can help protect students’ constitutional rights.⁹⁵ Students have the right to be free from excessive force at school, and Washington law specifically prohibits the use of restraints (such as handcuffs and Tasers) against students unless necessary to control behavior that poses an imminent likelihood of serious harm.⁹⁶ Police officers who lack sufficient training may resort to traditional law enforcement tactics in schools, in violation of state law.

School districts may also be liable for police officers’ constitutional or statutory violations.⁹⁷ And, law enforcement officers without specialized training in working with youth may find themselves in escalating situations, relying on traditional law enforcement techniques to subdue students. A recent case in Kentucky illustrates the risk; there, an officer with no training in use of force or working with students with disabilities handcuffed an 8-year-old student with disabilities around his elbows.⁹⁸ Any school district that has campus police or that regularly calls officers to respond to schools should ensure that any school/police contract requires specialized training and sets strict standards for officer use of force. Appendix D to this report provides model policy language on use of force.

BEN'S STORY

Ben, a high school student with autism, was shot in the back with a Taser by a police officer as he was leaving his school building. Ben had spent a portion of his morning walking a hallway in his Pierce County school in an attempt to regulate his behavior. As he was walking the halls, he bumped into another student, resulting in a pushing match that resolved without further incident. Still, school officials called the officer, and directed Ben to leave the hallway and walk on the school track outdoors. As Ben was exiting the school building and heading towards the track, the officer Tased him as he was walking away. Ben fell immediately, flat on his face, into the pavement, and received injuries that required medical attention.

2. Data Collection

Washington school districts do not appear to routinely collect or analyze data on police interactions with students, including the rates and causes of calls to law enforcement or student arrest on campus. Washington law requires schools to report uses of physical restraint of students (including by police officers)⁹⁹ but does not require reporting of other officer interactions with students. In addition, a significant number of schools failed to report any data on restraints under state law.¹⁰⁰ Federal law requires schools to biannually report school-based arrests and referrals to law enforcement, but that self-reported data may be inaccurate or incomplete.¹⁰¹ Accordingly, we cannot confidently use existing data sources to identify the numbers of students arrested in Washington.

School/police contracts similarly fail to require comprehensive data collection. Only 18 of the 92 school/police contracts we reviewed require police officers to track or log their activities, most typically through a periodic “activities log” of interactions with students.¹⁰² Another 4 require school police officers to produce logs of activities “on request.”¹⁰³ Even in these districts, the school/police contracts do not explicitly require data to be disaggregated by race, gender, or disability; the contracts also fail to indicate whether any data is systematically analyzed to better understand how police are interacting with students in school. The other 70 school/police contracts did not require any data collection or logs of officer activities. No school/police contract that we reviewed required publication of any data on police interactions in schools.

IN THE 2011-2012 SCHOOL YEAR

993 OF THE 3860

SCHOOL-BASED ARRESTS & REFERRALS TO LAW ENFORCEMENT WERE STUDENTS WITH DISABILITIES

The failure to collect data may subject districts and law enforcement agencies to legal liability. Nationwide, there is significant evidence that school police programs disproportionately impact students of color and students with disabilities. In 2011-2012, the Department of Education found that over 70 percent of students involved in school-related arrests or referred to law enforcement are Hispanic or African-American, despite making up significantly less of the student population.¹⁰⁴ In addition, data from the same year indicated that students with disabilities represent a quarter of students arrested and referred to law enforcement, even though they are only 12 percent of the overall student population.¹⁰⁵

Washington shows similar disparities. In the 2011-2012 school year, Washington schools reported arrest and referrals to law enforcement of 3860 students to law enforcement; 993 or nearly 26 percent of those students had disabilities.¹⁰⁶ Latinx students were also highly over-represented in the population of students referred to law enforcement,

forming 28 percent of those students referred to law enforcement but only 13 percent of Washington’s student population.¹⁰⁷

In light of these disparities, Washington’s school districts have a responsibility to collect and analyze data on the impact of law enforcement interactions with students. Both state and federal law prohibit discrimination on the basis of race and disability.¹⁰⁸ This includes programs that have an unintended effect of discriminating on the basis of race.¹⁰⁹ School districts have an obligation to keep the necessary information to determine that they are not discriminating against students in the administration of disciplinary policies, including referrals to law enforcement.¹¹⁰ In addition, robust data collection can help schools to evaluate the best ways to school resources, and reveal whether police officers are focused on serious offenses or engaged in student discipline.¹¹¹ Appendix F to this report provides model policies on data reporting and accountability.

3. Accountability

Typically, Washington’s school police officers are solely accountable to their home law enforcement agencies. Of the 92 school/police contracts we reviewed, only 30 gave school districts any input in the officer hiring or assignment process. Nineteen districts recognized that building level administrators have either functional supervision of an officer in their buildings, or would work with the officer or his or her supervisors to set a daily agenda. In all other jurisdictions, though, law enforcement maintains sole supervision or fails to address how the officer will interact with the school. The lack of clear authority for school administrators could lead to confusion about whether police officers are in any way accountable to administrators, or where parents and students should turn with complaints.

BETTER POLICY

TUKWILA. Tukwila Police Department requires police officers who are assigned to Tukwila Public Schools to have a meeting with the building principal “at least once a month to provide communication, services, and support” and then to transmit information from that meeting to the Chief of Police and others in the law enforcement chain of command.

STEILACOOM. The contract between the Steilacoom Police Department and the Steilacoom Public Schools gives the district “advance approval of all staff assigned to serve as [a school police officer] in District facilities.” The city also agrees to “replace any selected [school police officer] upon request of the District that is based on any reason permissible by law applicable to the District.”

School districts should actively and explicitly engage students, parents, community leaders and service providers in holding police in schools accountable. Each school district should form an independent

community board to provide review and input into any decision to regularly place law enforcement in schools. The board should have timely access to data on arrests and referrals to law enforcement from schools. In addition, schools should ensure that law enforcement personnel who operate within and around schools are subject to clear civilian complaint processes, and that students and parents are notified of investigations, outcomes, and the right to appeal.

We were unable to identify a single school district in Washington that has established a community board to regularly review school policing policies and practices. Moreover, only one school district — Spokane Public Schools — recently established a clear school-based complaint system for parents and students to use in response to police conduct in schools.¹¹² School districts in other parts of the country have created similar complaint processes. For example, in 2012, the Oakland (CA) Unified School District and Oakland Police Department created a transparent process for complaints about school policing, including clear timelines, investigation protocols, and public reporting.¹¹³ Complaint mechanisms and community accountability can ensure that Washington's school police programs do not undermine educational goals. Appendix F to this report provides model policies on data and accountability.

Call for Reform

Placing police officers in Washington schools on a daily basis, particularly with a lack of oversight and regulation, increases the risk of transforming classroom behavior into criminal behavior. Washington schools should invest in evidence-based solutions that support students and keep them in the classroom. This can be accomplished by:

RECOMMENDATION # 1: Invest Education Dollars in Student Support Services, Not Police:

Washington schools should invest in counselors, mental health professionals, school social workers and other professionals trained in working with adolescents, including those facing trauma or mental health issues. Teachers and school administrators should be trained in positive and preventative systems to improve school climate and support students in meeting behavior expectations.

RECOMMENDATION # 2: Involve Students, Parents and Community Members in Decision-Making Around School Policing:

School districts should actively engage parents, teachers, school administrators, community members, and other stakeholders in the decision to place police in schools. Any placement of police in schools should be reviewed to ensure it does not exacerbate racial or income inequality. School/police relationships should be regularly reviewed by a community accountability board to determine whether the school/police relationship continues to meet school and community needs.

The Washington legislature and school districts should also take steps to ensure that existing school police programs do not result in criminalizing students. This can be accomplished by:

RECOMMENDATION # 3: Amend Washington’s

Disturbing Schools Statute: The legislature should amend the state’s “disturbing schools” statute to prevent students from being arrested and prosecuted for classroom misbehavior. If the law remains on the books, it should be limited to disruption by outsiders, not students.

RECOMMENDATION # 4: Prohibit Police Involvement

in Student Discipline: School districts and law enforcement agencies should develop clear contracts and policies to govern their relationship. Those policies should:

- Prohibit teachers and administrators from calling police unless a student’s behavior poses real and immediate risk of serious physical harm.
- Establish a list of school rule violations that will not warrant police involvement, including:
 - All discretionary discipline offenses listed in RCW 28A.600.015, including disturbing schools, disorderly conduct, dress code violations, and cell phone use.
 - Misdemeanor offenses, including: possession of alcohol, possession of contraband not intended or used as a weapon; graffiti; being under the influence, assault in the 4th degree, malicious mischief, theft under \$750, vandalism or destruction of property.

RECOMMENDATION #5: Ensure Transparency and

Accountability of School Police: School districts should track and publish data on police activities on campus, and establish school-based complaint systems for students and families. School/ police contracts should require school district input into officer hiring, regular communication with building administrators, and clear lines of authority over police officers in schools.

RECOMMENDATION #6: Require Training of Police Who

Are Based in or Respond to Schools: Washington law should require that all police who respond to schools be trained in:

- Adolescent brain development
- Disability
- Trauma
- Mental health issues in adolescence
- Implicit bias and cultural awareness
- De-escalation

- Crisis intervention
- Student privacy rights
- Best practices in student discipline, including preventative and restorative practices.

This training should be provided to both police officers who are routinely present in school and police officers who are regularly called to respond to schools. School districts should take an active role in training both police officers who are regularly in schools and teachers and school administrators who work with police officers.

Conclusion

School policing is not a new phenomenon, but it is one that, in Washington, has garnered scant policy attention. Given the substantial risk of criminalizing students, Washington's parents, students, teachers, school administrators, law enforcement, and lawmakers should push for change in school policing policy at the state and local level.

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Endnotes

- ¹This report will primarily use the terms “school police” or “school policing” to refer to law enforcement officers who are stationed in schools as their primary assignment. This includes officers who are assigned to a single school and officers who are assigned to patrol multiple schools within a district.
- ²James, N. and McCallion, G. (2013). School Resource Officers: Law Enforcement Officers in School. *Congressional Research Service*. Retrieved from <https://www.fas.org/sgp/crs/misc/R43126.pdf>
- ³Portner, J (1994). Cops on Campus. *Education Week*, 13: 26-30. Retrieved from <http://www.edweek.org/ew/articles/1994/06/22/39police.h13.html>
- ⁴United States Department of Education, Office for Civil Rights. (2016). 2013-2014 Civil Rights Data Collection: A First Look, pp.4. Retrieved from <http://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>
- ⁵“Latinx” is a gender inclusive way to refer to people of Latin American descent (in other words, a gender neutral alternative to “Latino” or “Latina”). See Ramirez, T. and Blay, Z. (2016, July 5). Why People Are Using the Term ‘Latinx.’ *Huffington Post*. Retrieved from http://www.huffingtonpost.com/entry/why-people-are-using-the-term-latinx_us_57753328e4b0cc0fa136a159
- ⁶United States Department of Education, supra n. 4, pp.4.
- ⁷United States Department of Education, Office for Civil Rights. (2016). 2013-2014 Civil Rights Data Collection. Available from <http://ocrdata.ed.gov/flex/Reports.aspx?type=school>. A spreadsheet tracking the reported arrests and referrals to law enforcement for each of the 100 largest school districts in Washington is on file with the author.
- ⁸James and McCallion, supra n. 2
- ⁹Thurau, L. and Wald, J. (2009). Controlling Partners: When Law Enforcement Meets Discipline in Public Schools. *New York Law School Law Review*, 54: 977-1020, 978. Retrieved from <http://www.nylslawreview.com/wp-content/uploads/sites/16/2013/11/54-4.Thurau-Wald.pdf>
- ¹⁰United States Department of Justice, Community Oriented Policing Services (2016). Cops in Schools. Retrieved from <http://www.cops.usdoj.gov/default.asp?Item=54>
- ¹¹Other districts have funded school police programs through grants from the Safe and Drug-Free Schools and Communities Act, which allows “the hiring and mandatory training, based on scientific research, of school security personnel.” 20 USC 7115(b)(2). One school district in Washington funded its SRO through a grant from the US Department of Education Rural and Low Income School Program. The grant award on file with author.
- ¹²Travis, L. and Coon, J. (2005). The Role of Law Enforcement in Public School Safety: A National Survey, pp. 85. *National Institute of Justice*, Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/grants/211676.pdf>
- ¹³Thurau and Wald, supra n. 9.
- ¹⁴James and McCallion, supra n. 2.
- ¹⁵French-Marcelin, M. and Hinger, S (2017). Bullies in Blue: The Origins and Consequences of School Policing, 3-7. *American Civil Liberties Union*. Retrieved from https://www.aclu.org/sites/default/files/field_document/aclu_bullies_in_blue_4_11_17_final.pdf; Morgan, E., Salomon, N., Plotkin, M., & Cohen, R. (2014). The School Discipline Consensus Report, pp. 190. *Council for State Governments Justice Center*. Retrieved from https://csjjusticecenter.org/wp-content/uploads/2014/06/The_School_Discipline_Consensus_Report.pdf; Hirschfeld, P. (2008); Preparing for Prison: The Criminalization of School Discipline in the USA, *Theoretical Criminology*, 12(1), 79-101, 82-83.
- ¹⁶Zhang, A., Musu-Gillette, L., and Oudekerk, B. (2016). Indicators of School Crime and Safety: 2015. *National Center for Education Statistics*. Retrieved from <http://nces.ed.gov/pubs2016/2016079.pdf>
- ¹⁷Sickmund, M. and Puzanchera, C. (2014). Juvenile Offenders and Victims: 2014 National Report. *National Center for Juvenile Justice*. Retrieved from <http://ncjj.org/nr2014/downloads/NR2014.pdf>
- ¹⁸James and McCallion, supra n. 2; With Police in Schools, More Children in Court. *The New York Times*. Retrieved from <http://www.nytimes.com/2013/04/12/education/with-police-in-schools-more-children-in-court.html>
- ¹⁹These include the following districts: Arlington; Asotin-Anatone; Auburn; Centralia; Cheney; Clarkston; Ellensburg; Evergreen (Clark);Ferndale; Franklin Pierce; Freeman; Grandview; Kent; Liberty; Mukilteo; Othello; Orting; Riverside; Selah; Sequim; South Kitsap; Spokane; Sunnyside; Yakima; Wapato; West Valley.
- ²⁰United States Department of Education, supra n. 4, pp.4. According to this report, nationwide, black students represent 16% of overall enrollment, but 27% of students referred to law enforcement and 31% of students subject to school arrest. In comparison, white students represent 51% of enrollment, 41% of students referred to law enforcement, and 39% arrested. See also Price P. (2009), When is a Police Officer an Officer of the Law? The Status of Police Officers in Schools. *Journal of Criminal Law and Criminology*, 99(2): 548. Retrieved from <http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=7325&context=jclc>
- ²¹We excluded districts where officers were assigned to patrol all schools, or where officers were assigned to the larger schools in the district but not the smaller schools.
- ²²See, e.g., Fagan, J., Davies, G. and Carlis, A. (2012), Race and Selective Enforcement in Public Housing. *Journal of Empirical Legal Studies*, 9: 697–728; Geller, A. and Fagan, J. (2010), Pot as Pretext: Marijuana, Race, and the New Disorder in New York City Street Policing. *Journal of Empirical Legal Studies*, 7: 591–633; Epp, C. and Maynard-Moody, S. (2014, January/February), Driving While Black, *Washington Monthly*. Retrieved from <http://washingtonmonthly.com/magazine/janfeb-2014/driving-while-black/>; see also Brady, K., Balmer, S. and Phenix, D. (2007). School-Police Partnership Effectiveness in Urban Schools: An Analysis of New York City’s Impact Schools Initiative. *Education and Urban Society*, 39(4), 455-478, 468 (noting that schools targeted for increased security personnel in New York City “stood out as racially isolated” with high proportions of African American students and minuscule proportions of White and Asian students).
- ²³See, e.g. Phoenix Protection Solutions Inc. & West Valley Yakima School District, Security Services Agreement (2015); Phoenix Protection Solutions Inc. & Toppenish School District, Professional Services Agreement (2015). Both agreements on file with the author.
- ²⁴The 9 districts that did not pay for school police officer salaries are: Finley School District; Kiona-Benton City Schools; Oak Harbor School District; Port Townsend School District; Prosser School District; Pullman School District; Seattle Public Schools; Tukwila School District; and Tumwater School District.
- ²⁵We calculated school district contributions by reviewing a variety of sources. In some instances, school/police contracts specify the exact amount of the school district’s contribution. In other instances, the contracts specified a proportion that the district would pay for officers; we then multiplied that proportion by the average officer salary in the police department, based on city or county records. Finally, we submitted requests for public records to those districts where public records did not reveal school district payments for SROs. In cases where school districts paid multiple officers different amounts, we report an average number per officer.
- ²⁶This is slightly above the national average salary for a police officer. According to the Bureau of Labor Statistics, the median salary nationwide for a police or sheriff’s patrol officer was \$58,320. See Bureau of Labor Statistics (2015). Occupational Employment and Wages: Police and Sheriff’s Patrol Officers. Retrieved from <http://www.bls.gov/oes/current/oes333051.htm>
- ²⁷See Appendix A. These include Cheney School District (\$127,299); Everett School District (\$111,282); Evergreen(Clark) School District (\$105,891); Franklin Pierce School District (\$101,800); Peninsula School District (\$101,800); Steilacoom Historical School District (\$101,000); Sunnyside School District (\$125,000);
- ²⁸The ACLU obtained public records from Spokane Public Schools that listed the names of each officer. We then obtained data on each of their salaries from an online tool published by the Spokesman Review newspaper, at <http://data.spokesman.com/salaries/schools/2015/>. A spreadsheet listing the information is on file with the author.
- ²⁹Kent School District No. 415. (2015). 2015-2016 Adopted Budget, pp. 101. Retrieved from <http://www.kent.k12.wa.us/cms/lib/WA01001454/Centricity/Domain/8/Monthly%20Financials/F-195%20and%20F-196/ASBO%20BUDGET%20DOCUMENT%20FY16.pdf>
- ³⁰Tigas, M. and Lawrence-Turner, J. (2015). Washington State School Salaries: 2015, Average Salary by Job Title. *Spokesman Review*. Retrieved from <http://data.spokesman.com/salaries/schools/2015/>

- ³¹Wolf, K. (2013). Arrest Decision Making by School Resource Officers. *Youth Violence and Juvenile Justice*, 00(0): 1-15.
- ³²Theriot, M. (2009). School Resource Officers and the Criminalization of Student Behavior. *Journal of Criminal Justice*, 37: 280–87, 280. Retrieved from <http://youthjusticenc.org/download/education-justice/school-policing-security/School%20Resource%20Off%EF%AC%81cers%20and%20the%20Criminalization%20of%20Student%20Behavior.pdf>
- ³³Advancement Project, et. al., (2013). Police in Schools are Not the Answer to the Newtown Shooting, pp 7. Retrieved from http://b.3cdn.net/advancement/df16da132af1903e5b_zlm6bkclv.pdf
- ³⁴*Id.* at 13.
- ³⁵Highly restrictive efforts to control students by involving police in school disciplinary matters cause higher levels of school disorder by diminishing students' belief in the legitimacy of school staff authority, creating an adversarial relationship between school officials and students. See, e.g., Theriot, M. (2016). The Impact of School Resource Officer Interaction on Students' Feelings About School and School Police. *Crime and Delinquency*, 62(4): 446-469 (study indicating that students with high levels of contact with school police have lower levels of school connectedness); Nolan, K. (2011). Police in the Hallways: Discipline in an Urban High School, pp. 53-72, 163-161; Gottfredson, G., et. al., (2005). School Climate Predictors of School Disorder: Results from a National Study of Delinquency Prevention in Schools, *Journal of Research in Crime and Delinquency* 42: 412, 433 (finding students rate their schools higher on scales of student delinquency and victimization when they report unfair implementation of arbitrary rules); Berger, R. (2003). The Worst of Both Worlds: School Security and the Disappearing Fourth Amendment Rights of Students, *Criminal Justice Review* 28: 336, 340; Mayer, M. and Leone, P. (1999). A Structural Analysis of School Violence and Disruption: Implications for Creating Safer Schools. *Education and Treatment of Children*, 22: 333, 349, 352 (study "suggests that more efforts to secure schools through physical means or personnel interventions, the more disorder may be present.")
- ³⁶Theriot, supra n. 32, pp. 280–87.
- ³⁷Na, C. and Gottfredson, D. (2011). Police Officers in Schools: Effects on School Crime and the Processing of Offending Behaviors. *Justice Quarterly*, pp 1-32.. Retrieved from <https://ccjs.umd.edu/sites/ccjs.umd.edu/files/pubs/Police%20Officers%20in%20Schools-Effects%20on%20School%20Crime%20and%20the%20Processing%20of%20Offending%20Behaviors.pdf>.
- ³⁸Brady, et. al, supra n. 22, pp. 473.
- ³⁹Nance, J. (2016), Students, Police and the School to Prison Pipeline. *Washington University Law Review*, 93: 919. Retrieved from http://openscholarship.wustl.edu/law_lawreview/vol93/iss4/6/
- ⁴⁰These include: Northshore School District (School resource officer "may assist with discipline problems"); Tumwater School District (same); Yelm School District (same); Bethel School District (School officer will engage in "behavior modification of problem students"); Yakima School District (directing the school resource officer to complete incident reports on violations of school rules); Central Valley School District (School resource officer will "enforce school disciplinary plans."); Mead School District (same); East Valley School District (same); West Valley School District (same); Oak Harbor School District (calling for joint investigations of incidents that may be both violations of school rules and violations of the law); Bellevue (Officer will not act as disciplinarian but may assist with student discipline); Orting (SRO will "assist school district personnel in the identification of and behavior modification of behaviors not conducive to a positive school environment). All agreements on file with the author.
- ⁴¹United States Department of Education, Office for Civil Rights. (2016). Dear Colleague Letter on Police in Schools. Retrieved from <http://www2.ed.gov/documents/press-releases/secretary-sro-letter.pdf>
- ⁴²Spokane Public Schools, Procedure 6514, District and Campus Safety (March 22, 2017), at <https://weba.spokaneschools.org/polpro/View.aspx?id=767>.
- ⁴³Keierleber, M. (2015, November 5). Why So Few School Cops Are Trained to Work With Kids. *The Atlantic*. Retrieved from <http://www.theatlantic.com/education/archive/2015/11/why-do-most-school-cops-have-no-student-training-requirements/414286/>
- ⁴⁴Blad, E. (2016, August 11). ACLU, Arrested Students Sue Over South Carolina's Disturbing Schools Law. *Education Week*. Retrieved from http://blogs.edweek.org/edweek/rulesforengagement/2016/08/aclu_arrested_students_sue_over_south_carolinas_disturbing_schools_law.html
- ⁴⁵Brown, E. (2015, November 8). Police in schools: Keeping kids safe, or arresting them for no good reason? *The Washington Post*. Retrieved from https://www.washingtonpost.com/local/education/police-in-schools-keeping-kids-safe-or-arresting-them-for-no-good-reason/2015/11/08/937ddfd0-816c-11e5-9afb-0c971f713d0c_story.html
- ⁴⁶This number only approximates the use of disturbing schools charges against students. No statewide agency systematically tracks the offenses leading to arrests in schools, and, as discussed in greater detail in section III of this report, few schools and law enforcement agencies collect this data. To get a general sense of charges for disturbing school, the ACLU obtained data on every charge filed in Washington state over the past 20 years from the Administrative Office of the Courts. We then identified every charge filed under RCW 28A.635.030 and equivalent municipal offenses. The data set does not indicate whether a young person was a student at the time, so we limited our analysis to individuals who were under 18 at the time of the incident. The data reported may be both under-and over-inclusive. It is likely that some of these charges were filed against juveniles who were not students of the school that was disturbed. At the same time, the data set does not include juvenile arrestees who entered into agreement diverting them from the courts before charges are event filed. As discussed further in section III of this report, we recommend schools collect and publish detailed data on school police contacts, including tracking the charges for which students are arrested.
- ⁴⁷Turner, C. (2016, September 28). Bias Isn't Just a Police Problem, It's a Preschool Problem. *National Public Radio*. Retrieved from <http://www.npr.org/sections/ed/2016/09/28/495488716/bias-isnt-just-a-police-problem-its-a-preschool-problem>
- ⁴⁸Monroe, C. (2005). Why are "Bad Boys" Always Black? Causes of Disproportionality in School Discipline and Recommendations for Change. *The Clearing House: A Journal of Education Strategies, Issues and Ideas*. 79:45, 46.
- ⁴⁹Goff, P., Leone, B., Culotta, C. and DiTomasso, N. (2014). The Essence of Innocence: Consequences of Dehumanizing Black Children. *Journal of Personality and Social Psychology*. 106: 526-545. Retrieved from <http://www.apa.org/pubs/journals/releases/psp-a0035663.pdf>
- ⁵⁰See, e.g., *Report Under Administrative Code 14-152: Arrests Effective by SSA or Officers Assigned to School Safety Division* (2015) (showing that Black students are over 50% of the students arrested in New York City Public Schools, despite being only 25% of the student population). Retrieved from http://www.nyclu.org/files/NYPD_Data_2015_Q1.pdf; Fowler, D., et. al. (2007). Texas's School-to-Prison Pipeline: Dropout to Incarceration, the Impact of School Discipline and Zero Tolerance. *Texas Appleseed*. Retrieved from <https://www.texasappleseed.org/sites/default/files/01-STPPReport2007.pdf>; Etsy, S. (2013). Arresting Development: Student Arrests in Connecticut. *Connecticut Voices for Children* 5. Retrieved from <http://www.ctvoices.org/sites/default/files/jj13schoolarrestfull.pdf>; Dahlberg, R. (2012). The Criminalization of School Discipline in Massachusetts' Three Largest School Districts. *American Civil Liberties Union of Massachusetts*. Retrieved from https://www.aclu.org/files/assets/maarrest_reportweb.pdf (In districts surveyed, Black students account for 2/3 of the arrests but only 1/3 of the student body).
- ⁵¹Advancement Project, et. al, supra n.33, pp 7.
- ⁵²Kirk, D. and Sampson, R. (2013). Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood. *Sociology of Education*, 86(1): 36-62. Retrieved from <http://www.asanet.org/sites/default/files/savvy/journals/soe/Jan13SOEFeature.pdf>.
- ⁵³Bureau of Justice Statistics. (2015). Earning and Unemployment Rates by Educational Attainment. Retrieved from http://www.bls.gov/emp/ep_chart_001.htm
- ⁵⁴Lieberman, A., Kirk, D., and Kim, K. (2014). Labeling Effects of First Juvenile Arrests: Secondary Deviance and Secondary Sanctioning, *Criminology* 52: 345, 359, 363.
- ⁵⁵*Plyler v. Doe*, 457 U.S. 202 (1982).
- ⁵⁶Executive Order: Enhancing Public Safety in the Interior of the United States, Sec. 10 (Jan. 25, 2015) (pledging to reinstitute the "Secure Communities" program). Retrieved from <https://www.whitehouse.gov/the-press-office/2017/01/25/presidential-executive-order-enhancing-public-safety-interior-united>.; American Immigration Council (November 29,2011). Secure Communities: A Fact Sheet. Retrieved from <https://www.americanimmigrationcouncil.org/research/secure-communities-fact-sheet>.
- ⁵⁷Executive Order, supra n. 55.

- ⁵⁸Perry, B., and Morris, E. (2014). Suspending Progress: Collateral Consequences of Exclusionary Punishment in Public Schools. *American Sociological Review* 79: 1067-087.
- ⁵⁹National Juvenile Justice Network. (2015). School Discipline and Security Personnel. Retrieved from <http://www.njjn.org/our-work/school-discipline--security-personnel>. (discussing program in Clayton County, GA).
- ⁶⁰Criscione, W. (2017, Feb. 9). Arrests in Spokane Public Schools down 88 percent from last year. *The Inlander*. Retrieved from <http://www.inlander.com/Bloglander/archives/2017/02/09/arrests-in-spokane-public-schools-down-88-percent-from-last-year>.
- ⁶¹*New Jersey v. T.L.*, 469 U.S. 325 (1985)
- ⁶²*York v. Wahkiakum School District No. 200*, 163 Wn.2d 297 (2008) (holding that random drug testing of student athletes violates Washington's constitution); *Kuehn v. Renton School District No. 403*, 103 Wn. 2d 594 (1985) (holding that required search of student luggage as precondition of participation in band concert tour violates constitution).
- ⁶³*State v. Meneese*, 282 P.3d 83 (2012). In this respect, Washington law is more protective of privacy than other states.
- ⁶⁴*Safford Unified School District v. Redding*, 557 U.S. 364 (2009).
- ⁶⁵Nance, J. (2013). Random, Suspicionless Searches of Students' Belongings: A Legal, Empirical, and Normative Analysis. *University of Colorado Law Review*, 84: 367-431, 395-96.
- ⁶⁶*J.D.B. v. North Carolina*, 564 U.S. 261, 269 (2011); *State v. D.R.*, 84 Wn. App 832 (Wn. Ct. App 1997).
- ⁶⁷Malloy, L., Schulman, E., and Cauffman, E. (2013) Interrogations, Confessions, and Guilty Pleas Among Serious Adolescent Offenders. *Law and Human Behavior*, 38:181-193. Retrieved from <http://legalpsych.fiu.edu/recent-pubs/2013/malloy-shulman-cauffman-in-press/malloy-shulman-cauffman-interrogations-confessions-guilty-pleas-2013.pdf>; Leo, R. (2009) False Confessions: Causes, Consequences, and Implications. *Journal of the American Academy of Psychiatry and the Law*. 37: 332, 336. Retrieved from <http://jaapl.org/content/37/3/332.full.pdf+html>
- ⁶⁸Oak Harbor School District and Oak Harbor Police Department, Memorandum of Understanding at 2, on file with the author.
- ⁶⁹For example, police in some communities help provide safe passage to students who are not going to school because they feared crossing a rival gang's territory in order to reach campus. See Morgan, et. al, supra n. 15 , pp. 209.
- ⁷⁰Teske, S. (2011). A Study of Zero Tolerance Policies in Schools: A Multi-Integrate Systems Approach to Improve Outcomes for Adolescents. *Journal of Child and Adolescent Psychiatric Nursing*. Retrieved from [http://www.ncjfcj.org/sites/default/files/Zero%20Tolerance%20Policies%20in%20Schools%20\(2\).pdf](http://www.ncjfcj.org/sites/default/files/Zero%20Tolerance%20Policies%20in%20Schools%20(2).pdf)(noting that "[y]outh are biologically wired to exhibit risk-taking behaviors, impulsive responses, and exercise poor judgment.")
- ⁷¹One study showed that when teachers are directed to identify problematic behavior in the classroom, they disproportionately track students of color. See Gilliam, W., et. al. (2016, September 28). Do Early Educators' Implicit Biases Regarding Sex and Race Relate to Behavior Expectations and Recommendations of Preschool Expulsions and Suspension? A Research Brief. *Yale Child Study Center*. Retrieved from http://ziglercenter.yale.edu/publications/Preschool%20Implicit%20Bias%20Policy%20Brief_final_9_26_276766_5379.pdf
- ⁷²Cole, S., et. al. (2005). Helping Traumatized Children Learn: Supportive School Environments for Children Traumatized by Family Violence. Massachusetts Advocates for Children Trauma and Learning Policy Initiative. Available from <http://massadvocates.org/publications/help-traumatized-children-learn/> (noting that children who have been exposed to trauma may engage in behaviors that are perceived as impulsive, aggressive, defiant, withdrawn, or less attentive to school activities.)
- ⁷³U.S. Department of Education, Office for Civil Rights. (2016, August 1). Dear Colleague Letter on the Inclusion of Behavioral Supports in Individualized Education Programs. Retrieved from <http://www2.ed.gov/policy/gen/guid/school-discipline/files/dcl-on-pbis-in-ieps--08-01-2016.pdf>
- ⁷⁴Bradshaw, C., Koth, C.W., Thornton, L.A., & Leaf, P.J., (2009). Altering school climate through school-wide positive behavioral interventions and supports: findings from a group-randomized effectiveness trial. *Prevention Science* 10(2), 100-115.
- ⁷⁵American School Counselor Association. (2014). Student to School Counselor Ratio: 2013-2014. Retrieved from <http://www.wa-schoolcounselor.org/Files/SchCounsratios50states.pdf>
- ⁷⁶RCW 28A.150.260 defines state funding for basic education in a prototypical school. The minimum state allocation for a prototypical high school of 600 students would include funding for 1/10th of a school nurse and even lower levels for social workers and school psychologists. RCW 28A.150.260(5). The state must allocate at least sufficient funds for 2.5 guidance counselors (including graduation advising) per high school. Id.
- ⁷⁷Skiba, R.J. et. al. (2004) Beyond Guns, Drugs, and Gangs: The Structure of Student Perceptions of School Safety. *Journal of School Violence* 3: 149-171.
- ⁷⁸Oakland Unified Sch. Dist. (2016) Welcome to Restorative Justice. Retrieved from <http://www.ousd.org/restorativejustice>
- ⁷⁹Fronius, T., et. al. (2016, February). Restorative Justice in U.S. Schools: A Research Review. *West Ed Justice and Prevention Research Center*. Retrieved from http://jprc.wested.org/wp-content/uploads/2016/02/RJ_Literature-Review_20160217.pdf
- ⁸⁰Bradshaw, C., et. al. (2012). Effects of School-Wide Behavioral Interventions and Supports on Child Behavior Problems. *Pediatrics*. 130: 1136-1145.
- ⁸¹Vincent, C, et. al. (2014). Effectiveness of Schoolwide Positive Behavior Interventions and Supports in Reducing Racially Inequitable Disciplinary Exclusion. *The National Institute on Drug Abuse*. Retrieved from <http://fixschooldiscipline.org/wp-content/uploads/2015/03/Vincent-Chapter-Chapter-14-of-Losen-Book.pdf> (referencing studies which suggest that implementation of SWPBS results in less school discipline incidents and higher academic success); Faer, L., and Omojola, S. Fix School Discipline: How We Can Fix School Discipline Toolkit. *Public Counsel*. Retrieved from <http://nyspbis.org/RegionalForum1516/Guides%20and%20Workbooks/Fix%20School%20Discipline%20Toolkit%20for%20Educators.pdf>.
- ⁸²Faer, et. al, supra n. 80, pp. 7 (referencing studies which show reduction in discipline referrals and problem behaviors in SEL schools as well as increases in academic and testing performances.)
- ⁸³*Id.* at 46-48
- ⁸⁴McInerney, M., and McKlindon, A. (2014, December). Unlocking the Door to Learning: Trauma-Informed Classrooms & Transformational Schools. *Education Law Center*. Retrieved from <http://www.elc-pa.org/wp-content/uploads/2015/06/Trauma-Informed-in-Schools-Classrooms-FINAL-December2014-2.pdf>.
- ⁸⁵Steinberg, L. (2014) Age of Opportunity: Lessons from the New Science of Adolescence.
- ⁸⁶Dudley, R. (2015, July). Childhood Trauma and Its Effects: Implications for Police. *Harvard Kennedy School and National Institute for Justice*. Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/248686.pdf>
- ⁸⁷Buckley, P, Gann, G., Thurau, L. and Wald, J. (2013, February). If Not Now, Then When?: A Survey of Juvenile Justice Training in America's Police Academies. *Strategies for Youth*. Retrieved from http://strategiesforyouth.org/sfsite/wp-content/uploads/2013/03/SFYReport_02-2013_rev.pdf
- ⁸⁸Keierleber, supra n. 42; Weier, S. and Cray, M. (2011). Police at School: A Brief History and Current Status of School Resource Officers. *The Clearing House: A Journal of Education Strategies, Issues and Ideas*, 84:160-160.
- ⁸⁹California, Ca. Ed. Code 32282.1 (training for school police must prioritize mental health and intervention services, restorative and transformative justice programs, and positive behavior interventions and supports); Colorado, C.R.S.A. 24-31-312 (state peace officers standards and training board shall create and approve school resource officer training curricula); Connecticut. C.G.S.A. § 17a-22bb, (subject to funding, school police to be trained in nationally-recognized best practices to prevent disproportionate referral of students with mental health issues); Indiana, Ind. Code 202-6-18.2-1 (school police must have at least 40 hours of specialized school policing training by approved training board); Mississippi. Miss Admin Code 7-6 2.2. (specific topics for training include juvenile development); Missouri, V.A.M.S. 168:450 (requires 40 hours of specialized school police training); New Jersey, NJSA 18A:17-43.1 (any assigned school officer must complete required training course); South Carolina, S.C. Code 5-7-12 (same); Tennessee, TCA 49-6-4217 (school officers must have 40 hours of basic training in the first year and 16 hours per year thereafter); Texas, 37 Tex. Admin Doe 22.43 (school police in larger districts must obtain state proficiency certificate); Utah, U.C.A. 1953 53A-11-1603 (state board of education to create school police training program); Vermont, V.T.C.A. Occupations Code 1701.262, 263 (school police required to have training in child and adolescent development and psychology)

⁹⁰United States Department of Education and Department of Civil Rights. (2016). Safe School-based Enforcement through Collaboration, Understanding and Respect (SECURE) Local Implementation Rubric, at 5, at <http://www2.ed.gov/policy/gen/guid/school-discipline/files/sro-local-implementation-rubric.pdf>; United States Department of Education, *supra* n. 42, Appendix A.

⁹¹Buckley, et. al, *supra* n. 86

⁹²These include both districts that require a one-time training course and districts that require specific ongoing training. They are: Auburn; Bellingham; Central Valley; Deer Park; East Valley (Spokane); Edmonds; Ellensburg; Evergreen (Clark); Lake Stevens; Monroe; Mount Vernon; Mukilteo; North Thurston; Othello; Pasco; Seattle; Spokane; Shoreline; Snohomish; Sunnyside; Tahoma; Tukwila; Tumwater; West Valley; and Yelm.

⁹³These are: Bethel; East Valley; Fife; North Kitsap; Prosser; Sequim; Snoqualmie Valley; Stanwood-Camano; and University Place.

⁹⁴These include: Aberdeen, Anacortes, Battle Ground, Bellevue, Lake Stevens, and Wapato.

⁹⁵United States Department of Justice, Civil Rights Division. (2015, March 4). Investigation of the Ferguson Police Department, at 37-38. Retrieved from https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf

⁹⁶RCW 28A.600.485

⁹⁷United States Department of Education, Office for Civil Rights. (2014). Dear Colleague Letter on the Non-Discriminatory Application of School Discipline. Retrieved from <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.pdf>

⁹⁸*S.R. v. Kenton County*, no. 2:15-CV-143 (E.D. KY, October 2, 2015)(Statement of Interest of the United States), at <https://www.justice.gov/opa/file/780346/download>.

⁹⁹RCW 28A.600.485.

¹⁰⁰Office of Superintendent of Public Instruction (2016, October 19). Dorn Releases Data on Restraint, Isolation of Students. Retrieved at <http://www.k12.wa.us/Communications/pressreleases2016/Data-Restraint.aspx> (noting that only 217 of 295 districts sent data).

¹⁰¹Morgan, et. al, *supra* n. 15, pp. 264; Dignity in Schools (2014, August 9), Moratorium-Model Code Training and Strategy Session. Retrieved at http://www.dignityinschools.org/files/Portland_CRDC_DataSlides.pdf

¹⁰²These include the following school districts: Asotin (police must keep a “detailed and accurate records, including a log describing student contact, month, school, grade, situation”); Bellevue (activity log); Clarkston (log of student contacts); Edmonds (monthly report summarizing SRO activities); Everett (quarterly reports); Highline (monthly report); Issaquah (quarterly activities report); Mukilteo (monthly report); North Kitsap (activity log and monthly report); Rochester (daily log of activities); Seattle (weekly reporting); Snohomish (monthly report); South Kitsap (activity log and monthly report); Sultan (monthly report); Wålhuke (quarterly activity report); and Yakima (patrol log).

¹⁰³These include the following school districts: Ferndale (regular reports as may be requested); Shoreline (report as needed); Sunnyside (quarterly report as may be required); and Wapato (record of patrol services on request).

¹⁰⁴United States Department of Education, Office for Civil Rights (2012). The Transformed Civil Rights Data Collection Summary. Retrieved at <http://www2.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf> (for districts with over 50,000 students).

¹⁰⁵United States Department of Education, Office for Civil Rights. (2014, March). Data Snapshot: School Discipline. Retrieved at <http://ocrdata.ed.gov/downloads/crdc-school-discipline-snapshot.pdf>

¹⁰⁶United States Department of Education, Civil Rights Data Collection: 2011-2012 State and National Estimations for Washington. Available from http://ocrdata.ed.gov/StateNationalEstimations/Estimations_2011_12.

¹⁰⁷*Id.*

¹⁰⁸See RCW 28A.642.010 (specifically prohibiting discrimination in Washington public schools on the basis of race, creed, religion, color, national origin, sexual orientation, or disability); 42 U.S.C. § 2000d et seq. (prohibiting discrimination in any program receiving federal funds).

¹⁰⁹34 C.F.R. § 100.3 (prohibiting criteria or methods of administration that have the effect of discrimination); WAC 392-190-007; United States Department of Education, Office for Civil Rights. (2014). Dear Colleague Letter, *supra* n. 96, at 7.

¹¹⁰United States Department of Education, *supra* n. 96, pp. 20.

¹¹¹For example, one study in Delaware showed that only 9% of SRO arrests were for felony offenses, and the remainder were for misdemeanors. 63% of these cases were ultimately dismissed by the juvenile court for lack of evidence and via prosecutorial discretion, indicating that the misdemeanor arrests were unnecessary. See Wolf, K. (2013). Booking Students: An Analysis of School Arrests and Court Outcomes. *Northwestern Journal of Law & Social Policy* 9:58. Retrieved from <http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1109&context=njls>

¹¹²Spokane Public Schools (2017). Policy and Procedure 6514, District and Campus Safety. Retrieved from <https://weba.spokaneschools.org/polpro/Search.aspx#16>.

¹¹³Oakland School Police Department Public Complaints Process and Complaints Report Policy, 2012, June 27). Retrieved at https://www.aclupa.org/files/2514/2427/8287/Oakland_Policy.pdf; Black Organizing Project. Frequently Asked Questions About the Oakland Unified School District Police Complaint Policy and Complaint Form. Retrieved from <http://www.publiccounsel.org/tools/assets/files/FAQ-on-Oakland-School-Police-Complaints.pdf>

Appendix A: Districts Surveyed

District Name	K-12 Enrollment	Police Regularly Stationed in Schools?	2013-14 Police Program Reported to US DOE OCR	Officers Assigned to Elementary Schools?	Reviewed agreement between police and schools?	School District Budgets Used to Pay Officer(s) Salary in Part or Whole?	Approximate or Average Paid by District Per Officer
Aberdeen School District	3,218	Y	N	N	Y	Y	\$77,761
Anacortes School District	2,757	Y	N	N	Y	Y	60,000
Arlington School District	5,503	Y	Y	Y	Y	Y	\$71,170
Asotin-Anatone School District	643	Y	Y	Y	Y	Y	\$77,545
Auburn School District	15,621	Y	Y	Y	Y	Y	\$55,400
Battle Ground School District	13,478	Y	Y	N	Y	Y	\$43,000
Bellevue School District	19,888	Y	Y	N	Y	Y	\$58,400
Bellingham School District	11,229	Y	N	N	Y	Y	\$58,400
Bethel School District	18,692	Y	N		Y	Y	\$95,440
Bremerton School District	5,035	Y	N	N	Y	Y	\$60,000
Camas School District	6,841	Y	N	N	Y	Y	\$57,850
Cashmere School District	1,532	Y	Y	N	Y	Y	\$49,815
Central Kitsap School District	10,965	Y	N	N	Y	Y	\$40,000
Central Valley School District	13,199	Y	Y	N	Y	Y	\$35,552
Centralia School District	3,595	Y	N	Y	Y	Y	\$72,348
Cheney School District	4,447	Y	Y	Y	Y	Y	\$127,299
Clarkston School District	2,653	Y	Y	Y	Y	Y	\$68,089
Clover Park School District	12,496	Y	Y	N	Y	Y	
Deer Park School District	2,486	Y	N		Y	Y	\$32,552
East Valley School District (Spokane)	4,227	Y	N		Y	Y	\$35,410
Edmonds School District	20,683	Y	Y	N	Y	Y	\$85,565
Ellensburg School District	3,215	Y	N	Y	Y	Y	\$10,000
Everett School District	19,123	Y	Y	N	Y	Y	\$111,282
Evergreen School District (Clark)	25,926	Y	Y	Y	Y	Y	\$105,891
Federal Way School District	22,719	Y	Y	N	Y	Y	\$98,400
Ferndale School District	4,764	Y	N		Y	Y	\$57,000
Fife School District	3,636	Y	N	N	Y	Y	\$52,275
Finely School District	912	Y	N	N	N/A#	N	\$0
Franklin Pierce School District	7,662	Y	Y	Y	Y	Y	\$101,800
Freeman School District	895	Y	Y	Y	Y	Y	\$17,776*
Grandview School District	3,653	Y	Y	Y	Y	Y	\$51,492
Highline School District	19,273	Y	Y	N	Y	Y	\$75,500

District Name	K-12 Enrollment	Police Regularly Stationed in Schools?	2013-14 Police Program Reported to US DOE OCR	Officers Assigned to Elementary Schools?	Reviewed agreement between police and schools?	School District Budgets Used to Pay Officer(s) Salary in Part or Whole?	Approximate or Average Paid by District Per Officer
Issaquah School District	19,738	Y	Y	N	Y	Y	\$34,000
Kelso School District	4,990	Y	N	N	Y	Y	\$86,375
Kennewick School District	17,550	Y	Y	N	Y	Y	
Kent School District	27,448	Y	Y	Y	Y	Y	\$83,030
Kiona-Benton City School District	1,472	Y	Y	N	N/A#	N	\$0
Lake Chelan School District	1,426	Y	N		Y	Y	\$46,000
Lake Stevens School District	8,485	Y	N		Y	Y	\$70,979
Lake Washington School District	27,707	Y	Y	N	Y	Y	\$40,000
Liberty School District	441	Y	Y	Y	Y	Y	\$17,776*
Longview School District	6,733	Y	Y	N	Y	Y	\$54,550
Manson School District	662	Y	Y	N	Y	Y	
Marysville School District	11,069	Y	Y	N	Y	Y	\$96,000
Mead School District	9,705	Y	Y	N	Y	Y	\$35,552
Mercer Island School District	4,412	Y	Y	N	Y	Y	\$24,147
Monroe School District	6,945	Y	Y	N	Y	Y	\$49,483
Moses Lake School District	8,285	Y	N	N	Y	Y	\$65,000
Mount Vernon School District	6,686	Y	N	N	Y	Y	\$20,847.00
Mukilteo School District	15,244	Y	Y	Y	Y	Y	\$88,123
North Kitsap School District	6,037	Y	N	N	Y	Y	\$38,791
North Thurston Public Schools	14,789	Y	N	N	Y	Y	\$47,000
Northshore School District	21,160	Y	Y	N	Y	Y	\$40,000
Oak Harbor School District	5,720	Y	N	N	Y	N	\$0
Olympia School District	9,864	Y	N		Y	Y	\$76,032
Orting School District	2,459	Y	Y	Y	Y	Y	\$59,000
Othello School District	4,253	Y	N	Y	Y	Y	\$40,500
Pasco School District	17,403	Y	Y	N	Y	Y	\$71,323
Peninsula School District	8,828	Y	N		Y	Y	\$101,800
Port Townsend School District	1,162	Y	N		N/A#	N	\$0
Prosser School District	2,789	Y	N	N	Y	N	\$0
Pullman School District	2,787	Y	Y		N/A#	N	\$0
Puyallup School District	22,665	Y	Y	N	Y	Y	\$65,000
Quincy School District	2,881	Y	Y	N	Y	Y	N/A
Renton School District	15,648	Y	N	N	Y	Y	\$75,000
Richland School District	13,049	Y	Y	N	Y	Y	\$25,000

District Name	K-12 Enrollment	Police Regularly Stationed in Schools?	2013-14 Police Program Reported to US DOE OCR	Officers Assigned to Elementary Schools?	Reviewed agreement between police and schools?	School District Budgets Used to Pay Officer(s) Salary in Part or Whole?	Approximate or Average Paid by District Per Officer
Riverside School District	1,460	Y	Y	Y	Y	Y	\$32,000
Riverview School District	3,219	Y	N	N	Y	Y	\$25,000
Rochester School District	2,163	Y	N	N	Y	Y	\$60,000
Seattle Public Schools	52,630	Y	Y	N	Y	N	\$0
Selah School District	3,586	Y	N	Y	Y	Y	\$38,350
Sequim School District	2,810	Y	Y	Y	Y	Y	
Shelton School District	4,252	Y	Y	Y	Y	Y	\$58,204
Shoreline School District	9,322	Y	N	N	Y	Y	\$60,000
Snohomish School District	10,052	Y	N	N	Y	Y	\$96,646
Snoqualmie Valley School District	6,800	Y	N	N	Y	Y	\$51,391
South Kitsap School District	9,610	Y	Y	Y	Y	Y	\$75,400
Spokane School District	29,852	Y	Y	Y	Y	Y	\$54,781
Stanwood-Camano School District	4,460	Y	N	N	Y	Y	\$57,225
Steilacoom Hist. School District	3,108	Y	N	N	Y	Y	\$101,000
Sultan School District	1,951	Y	Y	N	Y	Y	\$84,000
Sumner School District	9,153	Y	N		Y	Y	
Sunnyside School District	6,703	Y	N	Y	Y	Y	\$125,000
Tacoma School District	29,044	Y	Y	N	Y	Y	\$65,000
Tahoma School District	8,075	Y	N	N	Y	Y	\$45,000
Tukwila School District	3,017	Y	N	N	Y	N	\$0
Tumwater School District	6,382	Y	N	N	Y	N	\$0
University Place School District	5,580	Y	Y	N	Y	Y	\$58,458
Vancouver School District	23,345	Y	Y	N	Y	Y	\$84,000
Wahluke School District	2,358	Y	N		Y	Y	\$73,000
Walla Walla Public Schools	5,878	Y	N	N	Y	Y	\$51,467
Wapato School District	3,344	Y	Y	Y	Y	Y	\$69,225
Washougal School District	3,179	Y	N	N	Y	Y	\$44,105
Wenatchee School District	7,893	Y	N	N	Y	Y	\$90,369
West Valley School District (Spokane)	3,731	Y	N	Y	Y	Y	\$35,522
Yakima School District	15,941	Y	Y	Y	Y	Y	\$90,326
Yelm School District	5,627	Y	Y	N	Y	Y	\$60,000

Appendix A Endnotes

Note: A blank space indicates that information was not available.

* The Liberty and Freeman School Districts share the cost of a full time school resource officer between them.

According to school district representatives, the district has no formal agreement governing its school police.

Appendix B: Model School Policy on Police Involvement in Discipline

- I. General Principles:** District administrators have primary responsibility to ensure consistent enforcement of school rules and policies. No law enforcement officer shall be engaged in student discipline. Disciplining students is the sole responsibility of [District] staff.
- II. Requests for law enforcement assistance:**
- a. District staff shall not notify or request the assistance of law enforcement officers to resolve student disciplinary issues. School site administrators and staff may call for law enforcement assistance only when there is a real and imminent physical threat to student, staff, or the public.
 - b. District or school staff should not request the involvement of a law enforcement officer in a situation that can be safely and appropriately handled by the District's internal student disciplinary procedures. District and school staff and administrators shall not request the involvement of a law enforcement officer in cases of student conduct involving:
 - i. Altercations, abuse, and/or harassment over the internet;
 - ii. Any violations of school rules that do not also violate the criminal code, such as dress code violations, violations of school policy on personal electronic devices, profanity, or inappropriate public display of affection;
 - iii. Absenteeism or truancy;
 - iv. Disorderly conduct;
 - v. Failure to follow school rules or failure to cooperate with school staff; disturbing school or disrupting school activities; insubordination or defiance.
 - vi. Loitering or trespass;
 - vii. Malicious mischief or destruction of property;
 - viii. Perceived drunkenness or intoxication;
 - ix. Physical altercations that do not involve a weapon;
 - x. Possession of a tool that could be taken to be, but is not intended as a weapon – such as a nail clipper or file, small pen knife, butter knife, toy gun, pepper spray, etc. – unless that item is being brandished as a weapon; and
 - xi. Possession of alcohol, tobacco, or marijuana for personal use;
 - xii. Theft under \$750;
 - xiii. Vandalism and/or graffiti;
 - xiv. Verbal altercations, abuse, and/or harassment;
 - xv. Any other offense that would be a misdemeanor or gross misdemeanor crime if charged.
 - c. For all offenses that do not cause or pose a direct threat of harm to students or school staff, District administrators should exhaust all alternatives before involving law enforcement officers. Alternatives may include: issuing a warning, admonishing and counseling, and referring the student for community service, restorative justice, or mediation.
 - d. If a student commits a serious offense, District and school staff may request assistance from Department officers after considering the totality of the circumstances.
 - i. Serious offenses include:
 1. Armed robbery.
 2. Assaults involving serious bodily harm;
 3. Possession of a firearm;
 4. Serious violent offenses such as rape or kidnapping;
 5. Sex offenses;
 6. Use of a weapon; or
 - ii. The totality of the circumstances include:
 1. whether a lesser intervention will achieve the desired goal of correcting behavior;
 2. whether the child intended to cause serious harm;
 3. whether the child acted impulsively without any specific intent to cause serious harm;
 4. the child's age;
 5. whether the child has a disability; and
 6. other mitigating circumstances.
 - iii. In an emergency or crisis situation, District and school staff should call 911 or any Department officer or both and notify school administrators as soon as possible
 - iv. If there is no immediate danger to students or others, school staff will contact their school site administrator to make the decision about whether to request Department police assistance for an incident potentially involving a serious offense by a student, based on the totality of the circumstances set forth above.

Appendix C: Model Memorandum of Understanding Language on Police Involvement in Student Discipline

I. General Principles:

- a. District administrators have primary responsibility to ensure consistent enforcement of school rules and policies. No law enforcement officer shall be engaged in student discipline. Disciplining students is the sole responsibility of District and school staff. Accordingly, officers must refuse to engage in disputes that are related to issues of school discipline, even if District or school staff requested the assistance.
- b. Students who are referred to police officers for school discipline issues or disability related behavior may experience long-term, negative consequences as a result, including a higher likelihood of not graduating and having future interactions with the criminal justice system.
- c. Young people who are facing behavioral challenges or engaged in minor criminal activity are most likely to benefit from positive behavioral intervention and supports, access to adults who mentor and guide them, and additional counseling or tutoring rather than arrest and exclusion from school.
- d. Searching and interrogating students, and arresting and referring students to court, unless absolutely necessary, is counterproductive to the purpose of schools.
- e. Meaningful engagement of all stakeholders – including students, parents, teachers, and other school staff – is essential to school safety and positive school climate.

II. Issues Not Appropriate for Department Officer Intervention:

- a. Officers will not generally respond to District or school staff requests for involvement in situations that can be safely and appropriately handled by the [District]'s internal student disciplinary procedures. These include instances of student conduct including:
 - i. Altercations, abuse, and/or harassment over the internet;
 - ii. Any violations of school rules that do not also violate the criminal code, such as dress code violations, violations of school policy on personal electronic devices, profanity, or inappropriate public display of affection
 - iii. Absenteeism or truancy;
 - iv. Disorderly conduct;
 - v. Failure to follow school rules or failure to cooperate with school staff; disturbing school or disrupting school activities; insubordination or defiance.
 - vi. Loitering or trespass
 - vii. Malicious mischief or destruction of property;
 - viii. Perceived drunkenness or intoxication;
 - ix. Physical altercations that do not involve a weapon;
 - x. Possession of a tool that could be taken to be, but is not intended as a weapon – such as a nail clipper or file, small pen knife, butter knife, toy gun, pepper spray, etc. – unless that item is being brandished as a weapon; and
 - xi. Possession of alcohol, tobacco, or marijuana for personal use;
 - xii. Theft under \$750;
 - xiii. Vandalism and/or graffiti;
 - xiv. Verbal altercations, abuse, and/or harassment;
- b. Department officers who witness any of the above incidents should locate school staff to respond to the situation.

Appendix D: Model Memorandum of Understanding on Officer Use of Force

I. Governing Principles:

- a. Both the District and Department recognize that there is no educational or therapeutic benefit to the use of restraint, isolation, or physical force against students, and that the use of restraints in nonemergency situations poses significant physical and psychological danger to students and school staff.¹
- b. The District and Department seek to minimize the use of force by officers against students by prioritizing de-escalation techniques and limiting the use of force to situations posing an imminent risk of serious harm.

II. Definitions

- a. Restraint means physical intervention or force used to control a student, including the use of a restraint device to restrict a student's freedom of movement.²

- b. Restraint device means a device used to assist in controlling a student, including but not limited to metal handcuffs, plastic ties, ankle restraints, leather cuffs, plastic or flexicuffs, oleoresin capsicum (pepper spray), tasers, or batons.³
- c. Likelihood of serious harm means a substantial risk that physical harm will be inflicted by a person upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm.
- d. Serious bodily injury means bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

III. Limitations on Use of Force

- a. Police officers in school may not use physical force or restraint on a student except when reasonably necessary to control spontaneous behavior posing an imminent likelihood of serious harm.
- b. Officers shall not use force or other restraint unless they have attempted de-escalation tactics as described in subsection (3) of this policy, except where the student’s behavior poses an imminent threat of serious bodily injury to students, school staff, or the officer.
- c. In determining whether to use physical force or restraint, the officer shall consider the totality of the circumstances, including:
 - i. The student’s size, age, and weight
 - ii. The emotional and physical capacity of the student
 - iii. Whether the student’s primary language is other than English
 - iv. The severity of the potential harm
 - v. Number of students and adults present
 - vi. Whether the officer is aware of any additional limitations on use of force or restraint contained within the student’s individualized education plan or accommodation plan.
- d. Even when the restraint or physical force is reasonable necessary to control spontaneous behavior posing an imminent likelihood of serious harm, the officer shall use the least restrictive force technique necessary to end the threat. In assessing whether the use of force is proportionate and necessary to end, the officer must consider:
 - i. Is this how I would want a child I love and care for to be treated?
 - ii. How would the general public view the action? Would the public think this action is appropriate to the situation and the severity of the threat posed?
- e. The use of force must be closely monitored to prevent harm to the student, and must be discontinued as soon as the likelihood of serious harm has dissipated.
- f. Neither physical force nor restraint shall ever be used:
 - i. to punish or discipline the student;⁴
 - ii. against students who only verbally confront officers or school officials;
 - iii. as a result of refusal of the student to comply with school rules or a staff directive, unless the student’s spontaneous behavior poses an imminent likelihood of serious harm.

IV. De-Escalation Tactics:

Except where there is a real and immediate threat of serious bodily injury to students, school staff, or the officer, the first course of action should be the application of specific strategies designed to diffuse the situation by addressing students’ needs and de-escalating the immediate behavior. The intent of de-escalation is to restore the student’s capacity to control his or her immediate impulse or behavior and to move toward safer or more constructive resolution of the immediate problem situation. The following de-escalation tactics should be employed:

- a. Identify the student distress level and employ staff response using appropriate verbal, nonverbal, and paraverbal communication strategies (i.e., identifying precipitating factors of behaviors, limit setting, empathetic listening, respecting personal space, and utilizing appropriate body language).

Do...	Don't...
Remain calm	Raise your voice
Use positive body language	Continue to argue
Take a step back	Use negative body language
Recognize the student's feelings	Give ultimatums

Use "I" statements	Use sarcasm to defuse the situation
Suggest talking about the issue at a later time	
Tell the person what you are doing at all times, preferably before you do it	
Conduct yourself so as to avoid or minimize the possibility of accidentally touching private areas	
Always respect the student's history and cultural background	

- b. Slow down the situation by means of tactical disengagement: If an officer can calm the situation down and walk away from a minor confrontation – and nothing bad will happen upon the officer's exit – the officer should find a way to tactically disengage.
- c. Other examples of de-escalation include:
 - i. Placing barriers between an uncooperative student and an officer;
 - ii. Withdrawing;
 - iii. Decreasing the exposure to the potential threat by using distance or cover;
 - iv. Concealing oneself or others
 - v. Communicating from a safe position that is intended to gain compliance using verbal persuasion, advisements, and/or warnings;
 - vi. Avoiding physical confrontation unless immediately necessary, using verbal techniques such as Listen and Explain with Equity and Dignity (LEED) Training, to calm an agitated subject and promote rational decision making; and
 - vii. Calling additional support like a trusted teacher, administrator, parent, or other officer.

Officers should expect that a significant portion of the students they interact with have disabilities, and that many disabilities are not immediately visible.

- d. When permitted by educational privacy laws, any school staff member who calls an officer to respond to an incident involving a student with a disability shall inform the officer of any limitations on the use of force contained in the student's IEP.

V. Use of Force to Effectuate an Arrest of a Student:

- a. The standard approach to student behavior is to use restorative practices and seek to ensure that students remain connected to the learning environment and school community.
- b. Officers should limit arrests of students to those situations involving a direct threat of physical harm.
- c. An officer may use restraint or other force to effectuate an arrest of the student only if necessary to control spontaneous behavior that poses an imminent risk of serious harm, or if the subject flees or forcibly resists.

VI. Medical Attention: Medical assistance shall be provided to any person who requests it or who is injured as a result of use of force or restraint. Decontamination efforts should take place as soon as possible for persons who been exposed to the use of oleoresin capsicum (i.e. pepper spray).

VII. Training Required of Officers Using Restraint: Officers may only use those restraints for which they have successfully completed approved training.

VIII. Documenting Use of Force: Any officer who uses force on a student during school-sponsored instruction or activities must inform the building administrator or designee as soon as possible, and within two business days submit a written report of the incident to the district office. The written report must include:

- a. date and time of the incident;
- b. the name and job title of the officer who administered the force;
- c. a description of the circumstances that led to the use of force;
- d. any de-escalation tactics used by the officer to avoid the use of force;
- e. whether the student or any staff were physically injured during the use of force and any medical care provided;
- f. any recommendations for changing the amount or nature of resources available to the student or staff to avoid such incidents in the future.

The building administrator or his designee must verbally inform the student or parent's guardian of the use of force within 24 hours of the incident, and must send a copy of the written report of the incident to the district office no later than five business days after the use of force.

IX. Resolution of Complaints About Use of Force:

- a. A student or his/her parent or guardian who has concerns regarding a specific incident involving restraint or other forms of physical force may seek to resolve the concern by filing a complaint with the Superintendent or the Department.
- b. Notifying Parents and Students Regarding Complaint Procedures: The District shall publish on its website, and make available in student handbooks and in every school building, a procedure for filing complaints regarding school police with the District. The procedure shall permit parents or students to file complaints in person, via mail or electronic mail, orally or in writing.
- c. Sharing Complaints: The District & Department will each forward all complaints received regarding officer use of force to the other entity.
- d. The District shall investigate the actions of school staff leading up to and during the use of force incident. The Superintendent shall respond to the complaint within 10 business days of receipt.
- e. The Department shall investigate the actions of officers involved in use of force in accordance with its internal procedures, and shall transmit to the complaining party a notice of those procedures within 10 business days of receipt of the complaint.

Appendix D Endnotes

¹See RCW 28A.155.020 (notes of legislative finding)

²RCW 28A.600.485 (1)(b)

³RCW 28A.600.485(1)(c)

⁴U.S. Dep't of Educ, Restraint and Seclusion: Resource Document 16 (May 2012), available at:

Appendix E: Model School Policy on Student Questioning, Search, & Arrest

I. Questioning by District Staff:

- a. Staff may informally question students about safety-related concerns if staff has a reasonable suspicion that the student knows information that would help ensure the safety of students or staff.
 - i. Reasonable suspicion shall be based on specific and objective facts that the questioning will produce evidence related to an alleged violation of law or school rules.
 - ii. Curiosity, rumor, hunch, mere disruptive activity, attempts to shield private possessions from view or invocations of a student's constitutional rights cannot form the basis for reasonable suspicion.
- b. Where the student is suspected of having committed a crime, District staff shall first notify the student's parent or guardian before questioning the student about the alleged violation of law, even if the alleged violation of the law is also a violation of school rules.
 - i. Efforts to contact parents by the principal or designee must include calling all numbers listed on the student's emergency card and all numbers supplied by the student. The principal or designee shall record the time(s) of contact or attempted contact with the parent/guardian.
 - ii. If the student is 12 years of age or older, District staff shall inform the parent or guardian of his or her right to be present for the questioning. Unless the parent or guardian waives his or her right to be present for questioning, District staff shall cease questioning until the parent or guardian can arrive.
 - iii. If the student is below the age of 12, District staff shall not question the student without his or her parent or guardian present.
 - iv. District staff shall further notify the student in age-appropriate language that anything he/she says may be shared with school officials or police and can be used against him/her in a criminal case.

II. Questioning by Law Enforcement:

- a. Warrant or Other Legal Authority: As a general rule, law enforcement should interview students off campus. Law enforcement officers may not remove students from class for questioning without a court order or arrest warrant permitting questioning unless there is an immediate threat of bodily injury. Where there is no court order, arrest warrant, or immediate threat, law enforcement officers should wait until after school or, at a minimum, after class to approach the student.
- b. Identification of Officer: When any law enforcement official requests an interview with a student, the principal or designee shall request that the official provide verification of his/her identity and official capacity and certify the legal authority under which the interview is being conducted. If the officer refuses to provide certification of the legal authority for the interview, the principal or designee shall document such refusal and should consult with [District] legal counsel and receive approval before allowing the interview to proceed.
- c. Location of Interview: Where practicable, the school shall identify a private location out of sight and hearing of other students for any interview by law enforcement.
- d. Parental Notification and Presence:
 - i. No student under 12 shall be interviewed or questioned by law enforcement on school grounds without the consent of that student's parent or guardian. District staff must inform the parent or guardian of the law enforcement officer's presence, and the parent or guardian's right to refuse consent to student questioning.

- ii. If the student is age 12 or older, District staff must, prior to the commencement of questioning, contact the student's parent or guardian and give the parent or guardian a reasonable opportunity to be present when a student is questioned by a law enforcement officer, unless the student is a suspected victim of child abuse.
 - 1. If the parent/guardian requests that the student not be questioned until the parent/guardian can be present, the staff member shall notify the student and police officer of the parent's request and advise the student of his or her right to remain silent.
 - 2. Efforts to contact the student's parent/guardian by the principal or designee must include calling all numbers listed on the student's emergency card, including work numbers, cell phone numbers, and all numbers supplied by the student. The principal or designee shall record the time(s) of contact or attempted contact with the parent/guardian.
 - 3. If the principal or designee cannot reach the parent, he/she should leave messages where applicable and follow up with written documentation.
 - 4. If a parent/guardian cannot be found, the school site should offer the student the option of having an adult of his or her choice from the school available during the interrogation.

III. Search of Students By School Officials

a. General Principles:

- i. As necessary to protect the health and welfare of students and staff, under limited circumstances outlined in this policy, school officials and staff may search students, their property, and/or district property under their control and may seize illegal, unsafe, or otherwise prohibited items under the circumstances described in this policy.
- ii. The District Board urges that employees exercise discretion and good judgment that respects student dignity and promotes a positive school climate. When conducting a search or seizure, school officials and staff shall act in accordance with the law, Board policy, and administrative regulations.

b. Individual Searches: School officials and staff may search any individual student or his/her property within the student's possession, or district property under the student's control when there is individualized and reasonable suspicion that the search will uncover evidence that the student is violating the law, district policy, or administrative regulations.

- i. Reasonable suspicion shall be based on specific and objective facts that the search will produce evidence related to the alleged violation.
- ii. Curiosity, rumor, hunch, mere disruptive activity, attempts to shield private possessions from view, or invocations of a student's constitutional rights cannot form the basis for said reasonable suspicion.
- iii. Any search of a student, his/her property, or district property under the student's control shall be limited in scope and designed to produce evidence related to the alleged violation.
- iv. Factors to be considered by school officials when determining the scope of the search shall include:
 - 1. the danger to the health or safety of students or staff, such as the possession of weapons or other dangerous instruments;
 - 2. whether the item(s) to be searched by school officials are reasonably related to the contraband to be found;
 - 3. the intrusiveness of the search in light of the student's age, gender, and the nature of the alleged violation.
- v. School officials and staff shall not conduct strip searches or body cavity searches of any student.
- vi. School officials and staff may not require students to remove or lift any items of clothing during a search.
- vii. Searches will be conducted by or under the supervision of the school site administrator or certificated designee. It is preferred that searches be made in the presence of at least two [District] employees. Any [District] employee conducting a student search shall be of the gender identity of the student's choosing.
- viii. The principal or designee shall notify the parent/guardian of a student subjected to an individualized search verbally and in writing immediately after the search.
- ix. All searches and pat downs that take place at school should happen outside the view of other youth (unless emergency situations make it impossible), to maintain the student's privacy and to decrease public embarrassment, humiliation, and any other future stigmatization and discrimination against the student(s) involved.
- x. The Superintendent shall create and disseminate a policy regarding the return of seized student property. Seized items, such as electronics, clothing, or personal effects will be returned to the student at the end of the school day unless they are controlled or illegal substances. Seized items will only be turned over to law enforcement if these items are part of a criminal investigation, otherwise, seized items will be disposed of by the administration.

c. Searches of Student Lockers/Desks:

- i. School officials shall have the ability to open and inspect any school locker or desk without student permission or prior notice when they have reasonable suspicion that the search will uncover evidence of illegal possessions or activities or when odors, smoke, fire and/or other threats to health, welfare or safety emanate from the locker or desk.
- ii. Any items contained in a locker or desk shall be considered to be the property of the student to whom the locker or desk was assigned. The contents of any closed or sealed student belongings found in a locker shall not be searched without

individualized and reasonable suspicion that it will contain evidence that the student is violating the law, district policy, or administrative regulation.

- iii. Immediately upon seizing any item from a student locker or desk, the District official who conducted the search shall record the time, place, circumstances of the search, and list all items seized. The District official shall file such report with the school principal's office along with any item seized which shall be sealed and stored appropriately to assure that it is not tampered with or destroyed. The student shall be dealt with in accordance with District policies concerning disciplinary procedures.
- iv. If District officials confiscate any student possessions that should be returned to the student, they must maintain it in a secure location and make it available to the student at the end of the school day.

d. Search of Personal Electronic Devices:

- i. School administrators may only search an individual student's cell phone or electronic device with the informed consent of the student, pursuant to a search warrant based on probable cause to believe the phone contains evidence of criminal activity, or pursuant to a good faith belief that an emergency involving threat of death or serious physical injury exists that requires an immediate search of the device.
- ii. Simple possession or use of a cell phone or electronic device in violation of a school rule is insufficient justification for a search of the device.
- iii. In no instance shall a school administrator require a student to log into his or her email, chat, messaging, social media, or other accounts on the student's electronic device.
- iv. In conducting any search of a student's personal device pursuant to a search warrant, school staff shall:
 - 1. document the individualized facts that supported the finding of probable cause;
 - 2. notify the student and the student's parent or legal guardian of the particular suspected criminal activity and the type of data to be searched for as evidence; and
 - 3. provide the student's parent or legal guardian the opportunity to be present during the search.
- v. In conducting any search of a student's personal device pursuant to a good faith belief that an emergency exists, school staff shall, no later than 72 hours after accessing the device, provide to the student, the student's parent or legal guardian, and the principal's office:
 - 1. a written description of the emergency, including the facts that supported the good faith belief that an emergency required an immediate search of the device;
 - 2. a description of the search conducted, including a summary of the data accessed and/or seized when the device was searched.
- vi. In the course of conducting a search, a school official shall not copy, share, or in any way transmit any information from a student's cell phone or electronic device, or modify or delete any information. The scope of any search shall not extend beyond that to which the student consents, that which is necessary to produce evidence of criminal activity, or that which is required in an emergency.
- vii. Log of Searches: The school principal's office shall maintain a personal device access log in which the following information shall be recorded for each search of a student's personal device by school staff or other public employees: the name of the school official or other public employee accessing the device; the business address and other contact information for the person accessing the device; the date of access; the data or functions accessed; and the basis for the search. The log shall include documentation of searches undertaken in emergencies. Personal device access logs maintained pursuant to this provision shall not contain any personally identifiable student data, shall be made available to members of the public upon request, and shall be public records subject to the public records law. Confiscated electronic devices, as well as information obtained from the electronic device through a search under this policy, will only be turned over to law enforcement when there is a real and immediate physical threat to student, teacher, or public safety or law enforcement requests the device or information pursuant to a warrant.

e. Search of Students by Law Enforcement Official:

- i. Warrant Requirement: No sworn law enforcement officer (whether regularly stationed at school through a cooperative agreement with a law enforcement agency, employed by a school or school district, or responding to a call for service or assistance) shall search a student or property within the student's possession unless the officer has a warrant authorizing the search, or is operating pursuant to a recognized exception to the warrant requirement. No sworn law enforcement officer may seize property within the student's possession unless the officer has a warrant authorizing the seizure or is operating pursuant to a recognized exception to the warrant requirement.
- ii. School Official Exception Prohibited: A sworn law enforcement officer is not a "school official" authorized to invoke the school official exception to the warrant requirement.
- iii. An officer shall not in any way request or encourage a school official to search a student in an effort to circumvent these protections. School and district personnel shall refuse to cooperate with law enforcement requests to search students that are designed to circumvent these protections.

Appendix F: Model School Policy on Data & Accountability

I. Definitions: For purposes of this section:

- a. "School-related offenses" is defined as a criminal offense occurring or originating on a [District] school site during hours the school site is regularly open to the public or its students for school-related business.
- b. "School site" is defined as the property upon which the school is located. It also includes any location where a school-sponsored event is being held for the duration of such event.
- c. "Student" refers only to youth who are enrolled in a [District] public school.

II. Monthly Written Report:

- a. District staff shall compile a monthly written report of law enforcement officers who respond to situations within the District's jurisdiction. These monthly written reports shall be filed with the School Board and shall include:
 - i. School site crime incidents reported to, or observed by, any law enforcement officer;
 - ii. Number of times that a law enforcement officer was called to a school site, and included for each incident: the type of call, related offense (e.g., trespassing, disruption, battery, possession of a weapon), and resolution of call;
 - iii. Number of times a law enforcement officer referred a student for prosecution
 - iv. Number of times that law enforcement officers handcuffed, restrained, or summoned a student on campus and the basis for each incident.
 - v. Number of arrests of students made:
 1. By a law enforcement officer on District school sites for school-related offenses;
 2. By a law enforcement officer on District school sites for non-school-related offenses; and
 3. By a law enforcement officer off District school sites for school-related offenses.
 - vi. Such data shall be disaggregated by school site, offense, and student subgroup, including age, race, ethnicity, student English Learner status, foster youth status, gender, and disability (if applicable), whether the student has an Individualized Education Plan or section 504 Plan, and the disposition of the matter.
- b. Complaints/grievances: To the extent known by District staff, the number of complaints/grievances against law enforcement officers, present or acting in District schools, disaggregated by the number of complaints lodged against individual officers, identified by the officer's individual assigned code number. Complaint/grievances should include but not be limited to any reports of injuries or excessive force. All complaints against law enforcement officers shall be handled according to police department policy and procedure. All complaints received by [District] shall be forwarded to the law enforcement officer's supervisors and/or directly to police department Internal Affairs.
- c. Referrals: Number of referrals by law enforcement officers of students from school sites to wellness centers, medical facilities, tutors, mentors, or other resources in lieu of arrest or citation.

III. Bi-Yearly Report and Yearly Review

- a. The District School Board shall request and obtain a written report from District staff twice a year (in January and July, or as soon as reasonably possible thereafter) during open session of a regularly scheduled public Board meeting regarding:
 - i. the information contained in the aforementioned monthly reports; and
 - ii. the percentage of percentage of officer time spent on the following activities, based on a review of officer's daily activity logs submitted to the district:
 1. Teaching lessons
 2. Supervising or facilitating extracurricular activities, electives, or school clubs
 3. Patrolling campus
 4. Investigating criminal activity
 5. Other activities
 - iii. the impact of District policies and practices regarding law enforcement involvement with students,
 - iv. the District's efforts to reduce disproportionate contact between high risk or high-need populations and the police and/or juvenile justice system, as well as to reduce the rate of school-based arrests and citations while maintaining a safe school climate.
- b. The District should request the police department chief or designee be available to answer any questions posed by the Board or community related to safety, disproportionate minority contact with law enforcement, if any, student arrest or citation rates, and any other issues.
- c. The written report shall be made publicly available through the standard Board process and thereafter shall be posted on the

[District] website, consistent with applicable federal, state, and local privacy laws.

- d. The District shall provide the public with the following information by posting the information on its website, updated on an annual basis unless stated otherwise
 - i. Regulations, policies, and protocols governing law enforcement officer interactions with students, including any changes made in the prior year;
 - ii. Training materials for law enforcement officers about working with students; i
 - iii. Number of law enforcement officers regularly interacting with particular school sites; and
 - iv. The aforementioned monthly written report.
- e. On a yearly basis, the District shall convene a community oversight committee on school policing to review and make recommendations regarding the policies and procedures governing law enforcement involvement with students, and to review the bi-yearly report and make recommendations about continuing law enforcement engagement in the District.

IV. Complaint Process

- a. Any person who believes that any law enforcement officer or District staff have violated Board policy regarding law enforcement involvement in school may file a complaint with the Superintendent or his/her designee within 60 days of the alleged misconduct.
- b. The District shall establish a central complaint form, which will be available at the Superintendent's office, at each school in the central office, and online at [insert URL]. Complaint forms shall be available in languages other than English. A complainant may make a complaint using the central complaint form, or may make a complaint in writing.
- c. The Superintendent or designee shall investigate any complaints regarding District staff who may be violating Board policy regarding law enforcement involvement in school.
 - i. The Superintendent shall report the on District investigation to the complainant no later than 30 days after submission of the complaint, and shall use his or her best efforts to complete the investigation within 45 days of the filing of the complaint.
 - ii. An investigation shall not exceed 90 days unless circumstances beyond the District's control render completing the investigation within 90 days is impossible.
- d. Each report of disposition of a complaint shall include:
 - i. Whether the complaint was sustained or not sustained;
 - ii. A description of the investigation;
 - iii. Findings of fact (i.e., a detailed description of what the investigator believes occurred and what, if any, laws or policies were violated);
 - iv. An explanation of and rationale for the result and conclusion;
 - v. If a violation occurred, what remedies must be effectuated.
 - vi. The Superintendent and his or her designee shall keep a log of all complaints received by his or her office, and shall log each disposition.
- e. If the complainant disagrees with the Superintendent's resolution of the complaint, s/he shall have a right to appeal the resolution to the District Board. Within 60 days, the District Board shall either: a. Uphold the Superintendent's decision; or b. Reverse the Superintendent's decision and request further investigation. The Board's decision shall be made public, unless the complainant requests that the results of the appeal remain confidential.
- f. No officer or employee of the District or law enforcement officer In District schools shall retaliate against, intimidate, harass, or threaten any person making a complaint. Any District employee found to have retaliated against, intimidated, threatened, or harassed any person attempting to make or who has made a complaint will be disciplined to the full extent of the law.



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