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Possible Solutions to School Resource Officer Over-Policing and Maintaining a Safer School Environment Without Police

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**Possible Solutions to School Resource Officer Over-Policing
and Maintaining a Safer School Environment Without Police**

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I. Introduction

On May 25, 2020, George Floyd, a forty-six-year-old black man, was murdered by a police officer in Minneapolis.² Mr. Floyd's murder led to worldwide protests against police brutality, police racism, and police accountability, including in schools.³ Further, on March 25, 2015, school police officers effectuated a violent seizure of a 10-year-old Louisianian student who was black and suffered with autism.⁴ The student had been acting up in class earlier that day.⁵ Rather than responding to the situation in a manner appropriate under the circumstances, the police grabbed the student by her ankles, dragged her face down and knelt on her back.⁶ She ended her school day injured and in handcuffs.⁷ In 2021 alone, there were at least 43 incidents of gunfire on school grounds, resulting in 12 deaths and 19 injuries nationally.⁸

So, what exactly are the roles of police officers generally, and more specifically, what are their roles in public schools? Are they effectively protecting students and administration, or is over-policing creating an inefficient learning environment that disproportionately harms students of color? Recent events have forever altered public trust in police across the country and many school districts and activists are now having the discussion

² Wikipedia, *Murder of George Floyd*, WIKIMEDIA FOUNDATION, (August 19, 2021), en.wikipedia.org/wiki/Murder_of_George_Floyd.

³ *Id.*

⁴ Letter from Sara H. Godchaux & Eden B. Heilman, S. Poverty Law Center, to Office for Civil Rights, U.S. Dep't of Educ. 15 (May 7, 2015) (on file with Office for Civil Rights).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Everytown Research & Policy, *The Long, Shameful List of Gunfire on School Grounds in America*, EVERYTOWN RESEARCH, (March 22, 2021), everytownresearch.org/maps/gunfire-on-school-grounds/.

about whether police are doing more harm than good for schools.⁹ To that end, many public-school districts have already cut long stay contracts with police departments.¹⁰ Indeed, since May 2020, 33 public-school districts have eliminated school police officers.¹¹ In Columbus, Ohio, for example, one such school district allowed its contract with Columbus police to end in June 2020.¹² Instead, the school boards convened a committee of students, staff, and community members to make recommendations on school safety.¹³ However, after discord and disagreement amongst the committee took place, it was dissolved.¹⁴ As it turned out, the school could not handle hearing student voices directly, as these students shared pointed critiques of the current system.¹⁵ This task force was quickly shut down; a new committee was formed without student representation.¹⁶

However, school safety is still paramount, and acts as an important variable in the discussion. Some of a school's prime safety concerns include schoolchildren and administrator protection originating from outside the school's walls, but also inside them. After all, the question whether how many, if any, police officers should be assigned to schools would be more answerable if this information was easily ascertainable. For example, is one plain clothed officer enough, does a school need several for optimal safety, do the police help deter crime at all? What is the perfect balance to maintain a safe and efficient learning environment?

⁹ Schwartz, Sarah, et al. *These Districts Defunded Their School Police. What Happened Next*, EDUCATION WEEK, (August 19, 2021), <http://www.edweek.org/leadership/these-districts-defunded-their-school-police-what-happened-next>.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

This further begs the question, what is the correct answer to school safety that includes rebuilding or reshaping the trust and relationship between school children, especially black school children that are not sure whether school officers will keep them safe or the complete opposite?

First, this article will provide historical context and background of school resource officers. Second, this article will discuss various views on the matter, practical applications, and discuss how the plans are working in action as an update. Finally, this article will recommend that school districts should immediately: (1) terminate their contracts with SROs; (2) end the use of metal detectors and any other means contributing to a hostile learning environment devoid of trust; (3) create a safety committee and include students on it; and (4) provide better social services to the students and parents that matriculate in the school district.

II. Background

Each state has a broad and generalized interest in maintaining a safe and efficient school environment.¹⁷ To that end, school districts hire different categories of law enforcement to help protect students; school liaison officers and school police.¹⁸ Indeed, the distinction between school liaison officers, school resource officers (“SRO”), and school police is significant as it pertains to search and seizure law and other applicable laws.¹⁹ While school police is employed by and responsible to school administrators, SROs are responsible to the local police department.²⁰ Here, this project will be specifically addressing SROs. It is important to brief the history of SRO programs and its roots.

¹⁷ See *New Jersey v. T.L.O.*, 469 U.S. 325, 342 (1985).

¹⁸ Lentz School Sec, *The school resource officer/school liaison officer*, LENTZ, School Sec. § 13:10 (2020-2021).

¹⁹ *Id.*

²⁰ *Id.*

A. History

SRO programs were first implemented in Flint, Michigan during the 1950s. By 1975, 1% of schools across the country had on-site police officers compared to 69% in 2007.²¹ The harsh increase is often cited to public fear about school shootings, violence, and rising juvenile crime in schools.²² SRO officers implemented metal detectors, security cameras, tasers, and canines to assist and enforce safety policies.²³ Indeed, this growing dynamic of SRO presence has forever altered the relationship that schoolchildren have with their schools.²⁴ Further, it is still unclear whether SROs have increased student safety or have done anything to deter crime.²⁵

One additional concern is that SROs are entitled to qualified immunity, further bolstering their power. Qualified immunity is a legal principle that would protect SROs from being held personally liable for constitutional violations, including the right to be free from excessive force, as long as they do not violate clearly established law.²⁶ The standard applied is “of which a reasonable person would have known”²⁷ In a litany of recent cases, the courts have

²¹ Chongmin Na & Denise Gottfredson, *Police Officers in Schools: Effects on School Crime and the Processing of Offending Behaviors*, 30 Just. Q. 619, 620 (2013).

²² Spencer C. Weiler & Martha Cray, *Police at School: A Brief History and Current Status of School Resource Officers*, 84 The Clearing House 160, 160 (2011).

²³ Advancement Project, *Education on Lockdown: The Schoolhouse to Jailhouse Track* 23 (2005).

²⁴ Aaron Kupchik & Torin Monahan, *The New American School: Preparation for Post-Industrial Discipline*, 27 Brit. J. Of Soc. Of Educ. 617 (2006).

²⁵ Barbara Raymond, Center for Problem-Oriented Policing, inc., *Problem Oriented guides for Police, Response Guides Series Guide no. 10: Assigning Police Officers to Schools I* (2010).

²⁶ Lawfare, *What Is Qualified Immunity, and What Does It Have to Do with Police Reform*, LAWFARE, (June 10 2020), www.lawfareblog.com/what-qualified-immunity-and-what-does-it-have-do-police-reform.

²⁷ *Id.*

expanded SRO qualified immunity and expanded the test of probable cause.²⁸ Therefore, while the Fourth Amendment protects citizens from excessive force and the Fourteenth Amendment mandates equal protection of the laws of citizens, remedies against SROs are generally limited because of the concept of qualified immunity.

B. Racial Disparity

However, what is undisputed is that the vast majority of SRO actions disproportionately affect children of color.²⁹ A “federal report from the Department of Education's Office for Civil Rights” found that between 2011 and 2012, “black students represented about 16% of the student population, but accounted for 27% of all student referrals to law enforcement, and 31% of school-related arrests.”³⁰ To compound the problem, many of the actions SROs take involve suspension or expulsion for minor and non-violent infractions, such as the use of cellphones or iPads.³¹ Schools have an interest in maintaining a safe learning environment but are seemingly failing, especially with respect to black students. Removing a student from school for non-violent infractions is counter intuitive to a school’s educational mission, as doing so causes the student to fall even further academically.

²⁸ See *King v. Lumpkin*, 545 F. App'x 799, 802 (11th Cir. 2013); See also *G.M. ex rel. B.M. v. Casalduc*, 982 F. Supp. 2d 1235, 1243 (D.N.M. 2013); *C.B. v. City of Sonora*, 769 F.3d 1005, 1021 (9th Cir. 2014); *Jean-Baptiste on behalf of Jean-Baptiste v. Jones*, 424 F. Supp. 3d 1251, 1256 (S.D. Fla. 2019); *Dinsmoor v. City of Phoenix*, 249 Ariz. 192, 196, 468 P.3d 745, 749 (Ct. App. 2020), review granted (Dec. 15, 2020).

²⁹ Matt Pearce & Sonali Kohli, *Violent South Carolina classroom arrest adds to ‘school-to-prison pipeline’ debate*, L.A. TIMES (Oct. 27, 2015), <http://www.latimes.com/nation/la-na-police-schools-20151028-story.html>. (noting that a “federal report from the Department of Education's Office for Civil Rights” found that between 2011 and 2012, “black students represented about 16% of the student population, but accounted for 27% of all student referrals to law enforcement, and 31% of school-related arrests.”)

³⁰ *Id.*

³¹ *Id.*

Following the murder of Mr. Floyd, various school districts across the country have decided as to whether they should end their contract with SROs, alter their relationship with them, or to simply renew their contract. The school districts of Minneapolis, Minnesota, Chicago Illinois, Prince George’s County, Maryland, and Wake County, North Carolina all have very contrasting practices on the matter.

III. Current Attempts at Reform

A. The School District of Minneapolis, Minnesota

Minneapolis, Minnesota represents the most progressive practice that appears dangerous on its face. In Minneapolis, the epicenter to Floyd’s murder and the nation’s protest, the school district ended their contract with SROs by vote on June 2, 2020.³² Instead, the district hired 11 public safety support specialists.³³ The student body of 34,612 is comprised of 37% white students and 63% non-white students, including 34% black students.³⁴ Presently, as students return to school, the public safety support specialists are tasked with monitoring the hallways, de-escalating unruly behavior, and becoming more friendly with the students.³⁵ In a recent video in St. Paul, the neighboring county whose school district has also ended their contracts with SROs, the public safety support specialists can be seen mingling with students at the tennis court while also urging them to download the districts MySPPS Tip Line phone application: “‘When you see us driving around the streets of St. Paul, feel free to wave,’ Bee Xiong,

³² Sawchuk, Stephen, et al, Which Districts Have Cut School Policing Programs, EDUCATION WEEK, (June 9 2021), www.edweek.org/leadership/which-districts-have-cut-school-policing-programs/2021/06.

³³ *Id.*

³⁴ *Id.*

³⁵ Lonetree, Anthony, and Mara Klecker, *In Some Minnesota Schools, Students Return but Police Do Not*, STAR TRIBUNE, (April 24 2021), www.startribune.com/in-some-minnesota-schools-students-return-but-police-do-not/600049905/.

one of the liaisons, says in a voice-over. ‘We love to stop by to speak with students, families and community members.’”³⁶ Minneapolis students, parents, and teachers seem to commend the changes that have taken place in the district, indicating that they still feel safe despite not having armed officers in the building with them. Additionally, the school district freed up \$1.1 million dollars annually through making these changes.³⁷

In the New York Times, prominent civil rights activist Michelle Alexander commended Minneapolis’s decision to cut ties with SROs following the murder of George Floyd in the same city.³⁸ In the June 8, 2020 article, Alexander implored the United States school systems to make sweeping changes with respect to racial injustice curriculum and SROs.³⁹ She praised Minneapolis’s decision to stop using SROs to provide school security due to the department’s culture of violence and racism and designated the she decision as an impact to the ongoing protests.⁴⁰

However, when Minneapolis first cut ties with SROs, a group of three high school principals in the district wrote an open letter to the district condemning the move.⁴¹ The principals asserted that ending the contract with SROs would place the schools in danger.⁴² They rendered the move as political, and thought that Minneapolis was burning a “fragile bridge by lumping the entire police department into the complete negative.”⁴³ Despite this criticism, while

³⁶ *Id.*

³⁷ *Id.*

³⁸ Alexander, Michelle, *America, This Is Your Chance*, THE NEW YORK TIMES, (June 8 2020), www.nytimes.com/2020/06/08/opinion/george-floyd-protests-race.html.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Colbert, Harry, *Open Letter FROM Northside Principals to Mps & MPD Policymakers*, NORTH NEWS, (Oct. 23 2020), mynorthnews.org/new-blog/open-letter-from-minneapolis-principals.

⁴² *Id.*

⁴³ *Id.*

it is still too early to make a complete assessment, the changes seem to be positive with respect to school safety, in that, there is no identifiable increase in criminal activity amongst or against the students. However, it is difficult to prove or disprove whether burning a “fragile bridge” will have a negative impact on the city’s relationship to the police department.

Minneapolis represents a complete abolishment of police. Indeed, this is a bold action. One concern is whether cutting ties completely with police is too much and too fast. Of course, when testing safety and efficiency in the school, a wrong decision could be permanently damaging. However, the change is welcomed by the community who are affected by the district’s decision.

B. The School District of Chicago, Illinois

Chicago, Illinois represents a slower and more optional approach. In Chicago, the school district conducted SRO budget cuts in August 2020 from \$33 million to \$15 million per year, and further, in 2021-2022, schools may opt in to having an SRO through a majority vote by the school’s local council.⁴⁴ The student body of 347,684 is comprised of 11% white students and 89% non-white students, including 36% black students.⁴⁵

These budget cuts came as a result of community members in Chicago schools arguing that the presence of police officers in schools harms Black and Brown students and perpetuates a “school to prison pipeline,” citing a systematic problem of misconduct and abuse against these students.⁴⁶ After the initial budget cuts in 2020, many schools in Chicago opted to

⁴⁴ Sawchuk, Stephen, et al, Which Districts Have Cut School Policing Programs, EDUCATION WEEK, (June 9 2021), www.edweek.org/leadership/which-districts-have-cut-school-policing-programs/2021/06.

⁴⁵ *Id.*

⁴⁶ Staff, CBS 2 Chicago, *School Resource Officers Won't Return TO CPS Buildings This Year; LSCs May Opt for Alternatives next Year*. CBS CHICAGO, April 23, 2020.

dismiss SROs entirely in 2021, citing “reduced daily in-person attendance.”⁴⁷ Additionally, the Chicago district is working on a “Whole School Safety Plans” for the 2021-22 school year, sticking with its initial plan to allow schools to opt in.⁴⁸ The Whole School Safety Plans calls for a recommendation that schools implement holistic restorative justice, led by students, parents, community members, administrators, and staff at the schools.⁴⁹ The Whole School Safety Plans further recommended focus on social-emotional learning and mental health practices by increasing access to that support, prioritizing repairs in the school, and investing in additional extracurricular activities.⁵⁰

The school to prison pipeline is exactly what Alexander warned readers about in her book, *The New Jim Crow*, even before the roaring protests began in 2020 and made its way into the schools’ decisions regarding SROs.⁵¹ The school to prison pipeline, as Alexander describes it, is the “felon disenfranchisement laws . . . discriminatory practices . . . [and] zero tolerance policies that effectively funnel youth of color from schools to jails” starting, historically, from segregation at schools.⁵² As a perfect example of the pipeline, Alexander recounts an attack on Black students in November 2003 where SWAT was called to invade a school in South Carolina and handcuff students all because the school’s principal suspected that one of the students was dealing marijuana.⁵³ Alexander credits this military style policing in schools which evolved from community policing to the laws passed during the initial war on

chicago.cbslocal.com/2021/04/23/chicago-public-schools-resource-officers-wont-return-2020-21-local-school-councils/.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Michelle Alexander, *THE NEW JIM CROW*, (The New Press) (2020).

⁵² *Id.* at 74.

⁵³ *Id.* at 175.

drugs in 1981.⁵⁴ Further, despite the fact that a 2000 study by the National Institute on Drug Abuse reported that while white and black students use marijuana at the same rate, black students were arrested and imprisoned for it at a much higher rate.⁵⁵ In contrast with Minneapolis, Chicago seemingly agrees that there is a problem, but seems concerned that completely eliminating SROs or removing the option to keep them might be too much at this early stage. However, with certain changes, such as a safety committee and restorative programs, while jarring in theory, Chicago might have the best practice.

C. The School District of Prince George's County, Maryland

Prince George's County represents in practice that the complete elimination of SROs is not prudent and instead made cuts to the amount of SROs present. In Prince George's County, Maryland, in March of 2020, the district simply moved SROs from 12-month to 10-month employees and revoked a number of personnel of their arrest power.⁵⁶ The student body of 135,952 is comprised of 4% white students, and 96% non-white students, including 55% black students. In contrast with Minneapolis and Chicago, a district wide survey in Prince George's County revealed that 82% of respondents felt like SROs are important or very important to maintaining a safe learning environment.⁵⁷ However, SROs are only one of three types of security this district employs. They employ: (1) SROs; (2) Investigators, who are weaponless,

⁵⁴ *Id.*

⁵⁵ *Id.* at 208.

⁵⁶ Sawchuk, Stephen, et al, Which Districts Have Cut School Policing Programs, EDUCATION WEEK, (June 9 2021), www.edweek.org/leadership/which-districts-have-cut-school-policing-programs/2021/06.

⁵⁷ Arnold, Jess, *PGCPS School Board Votes to Keep School Resource Officers*, WUSA9.COM, (March 2, 2021), www.wusa9.com/article/news/education/pgcps-school-board-vote-school-resource-officers/65-551556ee-53c7-4288-acff-255dc8b01b58.

without uniform, and are first responders; and (3) Security Assistance, who assist investigators and also monitor safety in the schools.⁵⁸

Protestors of the decision to maintain ties with SROs believe that “it makes [the] school look like [the] children are in jails,” and other members of the district are so appalled at the decision that they have considered moving out of the district entirely.⁵⁹ The protestors may see a light at the end of the tunnel as the county’s Police Reform Task Force drafted a number of suggestions to reform as a means to finding compromise. The Police Reform Task Force emphasized that if SROs are kept, the district will invest in mental health programs and restorative approaches to student discipline in order to help dismantle the school to prison pipeline and the district has agreed with this plan.⁶⁰ In contrast with the previous districts in practice, SROs will seemingly maintain a major presence in Prince George’s County schools. However, the county has still identified there is a major problem and removed arrest power from SROs and will invest in restorative social programs.

D. The School District of Wake County, North Carolina

Finally, Wake County represents the complete opposite end of the spectrum compared to the previous districts and ignores the problem entirely. In Wake County, North Carolina, in 2020, the school district decided to keep SROs.⁶¹ There, the student body is comprised of 45% white students and 55% non-white students, including 22% black students.⁶²

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.* You may find the suggestions at [https://go.boarddocs.com/mabe/pgcps/Board.nsf/files/BYLRFD6B8D3F/\\$file/CEO's%20Rec%20School%20Safety%20and%20Security%20Report%2001142021%20\(2\).pdf](https://go.boarddocs.com/mabe/pgcps/Board.nsf/files/BYLRFD6B8D3F/$file/CEO's%20Rec%20School%20Safety%20and%20Security%20Report%2001142021%20(2).pdf).

⁶¹ *Id.*

⁶² Sawchuk, Stephen, et al, Which Districts Have Cut School Policing Programs, EDUCATION WEEK, (June 9 2021), www.edweek.org/leadership/which-districts-have-cut-school-policing-programs/2021/06.

While it remains to be seen how each county will differ safety wise, each county represents a different approach to the issue at large. Most jarring, there is a clear connection between predominantly white schools and their decision to maintain ties with SROs. As the white population in each district increases, so does the district's ties to SROs. The white population is more comfortable with police presence, which seems to override the concerns of the non-white population.

Many students immediately protested Wake County's decision to maintain SRO contracts, citing that student's voice should be weighed more heavily.⁶³ Similar to Chicago, students warned about the relationship between SROs and Black and Brown students.⁶⁴ They also argued that these students "need to go to school [to feel] loved."⁶⁵ Data shows that Black students accounted for more than 60% of disciplinary referrals in the county while only making up 22% of the student population.⁶⁶ In agreement with activists in the other districts, they implored increased training for SROs and the same holistic disciplinary methods as previously discussed.⁶⁷ On the other side of the coin, again, surveys conducted in the district indicated that SROs provide for a heightened feeling of safety.⁶⁸ Unsurprisingly, of the four districts, Wake County seems to disagree that there is a cause for concern. It represents the lowest of the black population of the previous districts, the group most disproportionately harmed by over-policing.

⁶³ Chapman, Bridget, *Students Protest in Downtown Raleigh in Favor of Removing Student Resource Officers*, CBS17.COM, (June 27, 2020), www.cbs17.com/news/local-news/wake-county-news/students-protest-in-downtown-raleigh-in-favor-of-removing-student-resource-officers/.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ Walkenhorst, Emily, *Wake County Will Continue School Resource Officer Agreement, but Likely with Some Changes*, WRAL, (Feb. 25, 2021), www.wral.com/wake-county-will-continue-school-resource-officer-agreement-but-likely-with-some-changes/19544653/.

⁶⁷ *Id.*

⁶⁸ *Id.*

E. Other Pertinent Views, Proposed Guidelines, and Critiques

While the four school districts have each employed very different approaches in practice, various sources provide foundational ideas that should be implemented when considering changes to school safety and police presence at schools.

First, joining the fight, the American Civil Liberties Union (the “ACLU”) maintains that over-policing in schools is indeed an issue that needs resolution, and this policing disproportionately affects the minority population:

Many under-resourced schools rely on police rather than teachers and administrators to maintain discipline. Growing numbers of districts employ school resource officers to patrol school hallways, often with little or no training in working with youth. As a result, children are far more likely to be subject to school-based arrests—the majority of which are for nonviolent offenses, such as disruptive behavior—than they were a generation ago. These arrests for minor infractions disproportionately target students of color and students with disabilities.

The ACLU is working to end overly aggressive school policing and unnecessary school arrests in several communities by promoting agreements (often referred to as Memorandums of Understanding or MOUs) between school districts, police departments, and other justice agencies. We are also challenging harmful school policing practices and policies through litigation and legislative reforms.⁶⁹

The ACLU is indeed a powerful social justice ally to have. While they agree that there is an issue to be addressed, they do not provide a concrete recommendation in practice as to the amount, if any, of SROs on school-site. Their current position is too modest at best but they stand correct as a start.

⁶⁹ ACLU, *Police Presence in Schools*, AMERICAN CIVIL LIBERTIES UNION, (August 19, 2021), www.aclu.org/issues/juvenile-justice/school-prison-pipeline/police-presence-schools.

Next, in their law review article, Devan Byrd identifies possible solutions to the problems with SROs including alternatives such as opt-ins and written agreements.⁷⁰ In partial disagreement with Minneapolis’s plan, Byrd first suggests that as an alternative to ending school contracts with SROs, school districts may opt to implement written agreements with SROs, like was the case in Broward County in 2013 (the “Broward Agreement”).⁷¹ Having reviewed the Broward Agreement, in summary, it more clearly defined what a non-violent misdemeanor is for students, clarified that those in violation should not be handled with expulsion or force, and provided a flow chart for infraction handling that are less authoritative and compulsory in nature, and instead seeks to provide conversation and guidance.⁷² In 2016, the agreement was renewed due to positive results; there is no information presently that Broward has changed its plans regarding SROs.⁷³

Further, Byrd summarized the Broward Agreement as having SROs serve in “a role that impacts the lives of these youth ... as mentors, counselors, and role models [and] the role of warrior only when guarding and protecting their students.”⁷⁴ Then, Byrd recommends a better relationship between school officials and SROs, increased training in adolescent psychology, and better data collection and continuous improvement.⁷⁵ While Byrd, seemingly in

⁷⁰ Devan Byrd, *Challenging Excessive Force: Why Police Officers Disproportionately Exercise Excessive Force Towards Blacks and Why This Systemic Problem Must End Note*, 8 Ala. C.R. & C.L.L. Rev. 93, 115 (2017).

⁷¹ *Id.* citing *School Board of Broward County, Broward County Collaborative Agreement on School Discipline* (Nov. 5, 2013), http://b.3cdn.net/advancement/db79d1858f4c5f3e13_7hm6bq78b.pdf.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Devan Byrd, *Challenging Excessive Force: Why Police Officers Disproportionately Exercise Excessive Force Towards Blacks and Why This Systemic Problem Must End Note*, 8 Ala. C.R. & C.L.L. Rev. 93, 115 (2017).

⁷⁵ *Id.*

line with ACLU, identifies the pertinent issues, it is a conservative approach to a drastic problem, but that does not mean Byrd's ideas should not be recommended. Still, Byrd's approach should be implemented in any approach in considering the downsizing or removal of SROs.

Next, a July 2009 report sponsored by the New York Civil Liberties Union, the Annenberg Institute for School and Make the Road New York, profiled seven New York City public schools that are maintaining safety and learning in the school environment (the "Annenberg Report").⁷⁶ The Annenberg Report recommended the New York Department of Education: (1) zero tolerance policies be re-examined; (2) metal detectors should not be used, arguing that they create a penal environment; (3) adoption of a clear governance structure with school safety; (4) fewer SROs; (5) alternatives to harsh discipline; (6) allowance for student voice; and (7) medical, mental health, and social services to students.⁷⁷ The Annenberg Report is a more progressive approach than both Byrd and the ACLU, however, it is difficult to imagine than Byrd and the ACLU would disagree with it. After all, despite not recommending the mostly removal of SROs, the Annenberg Report in agreement with Byrd and ACLU calls for a sort of demilitarization of schools.

Next, the United States Department of Justice, Office of Community Oriented Policing Services in partnership with the U.S. Department of Education developed the Safe School-based Enforcement through Collaboration and included a five-step process (the "Five-Step Process") to safer schools and how to best utilize SROs:

1. Create sustainable partnerships and formalize MOUs among school districts, local law enforcement agencies, juvenile justice entities, and rights and community stakeholders.

⁷⁶ Lentz School Sec, *The school resource officer/school liaison officer*, LENTZ, School Sec. § 11:7 (2020-2021).

⁷⁷ *Id.*

2. Ensure that MOUs meet constitutional and statutory civil rights requirements.
3. Recruit and hire effective SROs and school personnel.
4. Keep SROs and school personnel well trained.
5. Continually evaluate SROs and school personnel and recognize good performance.⁷⁸

Here, in contrast with the prior calls for action, the Five-Step Process, instead of removing SROs, recommends merely that they be better trained. However, it is not enough as the damage has already been done in the public spotlight for police, and there might not be any coming back for them for a second chance no matter how effectively trained they are.

Finally, in Indiana, a school safety plan (the “Indiana Plan”) was enacted into law in July 2021 that provided new framework to SROs.⁷⁹ There, it instituted that SROs help create a safety plan with school administration that, mainly, protects against outside threats to the students at the school, prevents unauthorized access to the school, and secures the school against violence and natural disasters.⁸⁰ Further, under the Indiana Plan, additional laws provide that an employment engagement to this effect be executed, and limits SROs powers’ to make arrests, conduct search and seizure, and carry a firearm, but only after Indiana statutory training requirements are completed.⁸¹ Again, while the Indiana Plan best describes what exactly school safety means that ought to be protected, in practice, it is not enough. However, the Indiana Plan should be taken into consideration as a baseline.

⁷⁸ Lentz School Sec, *The school resource officer/school liaison officer*, LENTZ, School Sec. § 11:5 (2020-2021).

⁷⁹ 11 Ind. Law Encyc. Education § 202.

⁸⁰ *Id.* at IC 20-26-18.2-2(b).

⁸¹ *Id.* at IC 20-26-18.2-3(a).

To this point, all of the recommendations fail to fully appreciate the specific harm to the black community and further bolsters this article’s recommendations that are in slight and amended agreement with the practice in Chicago that SROs should be completely removed. The rest of this section will more directly address the plight of black students specifically, and identify just how drastic the problem is, why it exists, and why the prior recommendations do not go far enough to address them.

A 2019 data analysis conducted at Brown and Princeton universities illustrates the discrepancy in disciplinary treatment, specifically with regard to non-white students. It found that 46% of the racial gap in suspensions among elementary school students were due to teacher’s biased treatment.⁸² It showed that approximately “21% of the gap could be explained by differences in the characteristics of schools that black and white children attend predominantly, while differences in student behavior accounted for 9% of the gap.”⁸³ The research further supports a strong connection between higher rates of suspension to “poor school performance, school dropout, arrest, incarceration and unemployment.”⁸⁴ Alluding, again, to the school to prison pipeline.

According to Jayanti Owens and Sara McLanahan, co-authors of the analysis, sociologists have largely focused on two explanations for the racial gap in suspensions and expulsions.⁸⁵ The first is referred to as “between-school sorting,” which relates to the fact that schools comprised predominantly of non-white students and those from low-income households

⁸² Kimball, Jill, *Teacher Treatment of Students Factors into Racial Gap in School Suspensions*, BROWN UNIVERSITY, (August 19, 2021), www.brown.edu/news/2019-07-18/discipline.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

are more likely to enforce a “zero tolerance” policy for behavioral infractions, often penalizing students with suspensions after a single offense.⁸⁶ The second explanation for the racial gap focuses on several well documented differences in behavior across reported race. Non-white students are reportedly “less likely to have prior formal education experience than their white peers, and they’re more likely to have been exposed to a stressful home environment.”⁸⁷ These contributing factors may lead to misbehavior or misunderstandings between students and school officers. A lack of understanding of the cultural and socio-economic background of the students can lead to discourse. As previously stated, a student’s behavior is often linked to a stressful home environment; issues that arise from lack of role models or working to provide family income.⁸⁸

A third explanation for the racial gap is that, even within the same schools, similar behaviors of white and non-white students are interpreted differently and ultimately punished differently. The study showed that black students had anywhere from a 10 to 19 percent higher likelihood of being suspended or expelled than their white peers.⁸⁹ According to Owens, the fact that these racial disparities exist within the same school demonstrate that the categories school staff use as reasons for punishment, “such as ‘defiance,’ ‘disrespect’ and ‘noncompliance,’ are ripe for racial discrimination.”⁹⁰ These findings not only support the need for bias training, but also cast a critical lens on schools’ use of suspension and expulsion as means of discipline.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

Finally, Legal scholar Derek W. Black argues that public education is in crisis due to the current practices of school discipline, especially with respect to black students.⁹¹ Black provides history and context that schools need to understand and accept before deciding with respect to SROs and school protection. It is with Black's research as a foundation that one can build a safer and equal schoolgrounds in both theory and practice.

In an experiment conducted to answer why black students were punished disproportionately and to potentially identify implicit bias present in teachers, it was discovered that while black students make up 18% of national preschool enrollment, they make up 42% of suspensions.⁹² Starting from adolescence, black students have already prompted a response that will magnify racial bias in later years.⁹³ In agreement with the Brown and Princeton study referenced above, Black asserts that race not only influences how school employees perceive behavior, but also “enhance[s] perceivers’ detection of behavioral patterns across time.”⁹⁴ This type of social science research has had a growing impact on numerous school districts’ discipline policies in the past few years.⁹⁵

For example, in Toledo, Ohio, schools have acknowledged that their high rates of suspensions are counterproductive to their educational mission and decided to enact a more “proactive and preventive approach to discipline,” resulting in immediate decreases in suspension in many schools.⁹⁶ Similarly, under new policies in the Los Angeles Unified School District, SROs no longer issued citations for minor offenses, instead opting for alternatives to

⁹¹ Black, Derek W., *ENDING ZERO TOLERANCE THE CRISIS OF ABSOLUTE SCHOOL DISCIPLINE* 119-131 (New York University Press) (2018).

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.* at 118.

arrest.⁹⁷ The former “zero-tolerance policies” had not made schools safer but had “often push[ed] struggling students to drop out and get in more serious trouble with the law.”⁹⁸

Many of these reforms were the result of a long-established relationship between the state and the Office for Civil Rights (OCR) at the Department of Education that is tasked with investigating complaints against school districts citing racial disparities in discipline.⁹⁹ In Florida, the Southern Poverty Law Center (SPLC) filed complaints with OCR against five school districts that were reportedly “abusing their discretion in suspending and expelling African American students for misbehaviors that would otherwise go unpunished.”¹⁰⁰ SPLC was then able to secure a settlement agreement in Flagler County to minimize suspensions for infractions that could be handled through alternate means, and to offer racial-bias training to school staff intended to reduce the amount of minorities subjected to unfair disciplinary action.¹⁰¹ Again, we see increased SRO training as a means to close the racial gap in discipline. As these limited policy changes spread, suspension rates have fallen in a number of places, however, the crisis in discipline is continuing unmitigated in most districts.

Between 2013 to 2015, an increasing number of instances have been reported of SROs using violent methods, including choking and handcuffing, on elementary and middle school students.¹⁰² Following the 2014 shooting of Michael Brown by police and subsequent protests in Ferguson Missouri, the U.S Department of Justice launched a study to examine law enforcement’s relationship and interaction with local students. The study found that SROs in

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.* at 120.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.* at 135.

middle and high schools too often “treat routine discipline issues as criminal matters and . . . use force when communication and de-escalation techniques would likely resolve the conflict.”¹⁰³ Data illustrates a strong tie between school discipline and law enforcement, with about seven states referring 10 to 16 percent of students to law enforcement in 2011, and more than half of the state referred 5 percent or more.¹⁰⁴ The numbers for black students were much worse, with an average of one in ten black students referred to law enforcement.¹⁰⁵ New data and research compel more policy change each year, but change on a fundamental level is difficult to bring about.

Black concludes that “the current regulatory and legal structure is not in place to end harsh discipline and zero tolerance.”¹⁰⁶ Even at a federal level, policy reform has been narrow in its approach, focusing almost exclusively on racial disparities; while racial bias is undoubtably a catalyst of disciplinary issues, the root of the problem is that aside from race, schools see fit to “exclude students for immature behavior rather than to educate them.”¹⁰⁷ Racial bias magnifies the underlying issues with disciplinary approach, but to be truly effective, policy must directly address zero tolerance and overly harsh punishment such as suspension and expulsion.¹⁰⁸ Therefore, many recent reforms to discipline are partial responses to a the larger issue. For instance, they may limit the circumstances under which law enforcement will be contacted for minor infractions, but they do not limit the school’s authority to suspend students for such infractions.¹⁰⁹ To refer back to the school to jail pipeline, limiting the police

¹⁰³ *Id.* at 137.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.* at 123.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* at 124.

¹⁰⁹ *Id.*

department's role within a school is extremely important in disrupting the direct pipeline, but to narrowly focus on law enforcement implies that they are the sole issue, rather than the school's fundamental approach to discipline itself.¹¹⁰ It is important to note that if school's fail to recognize the need for their own discipline policy reform, the pipeline will still run, just less directly.¹¹¹

Therefore, black students require drastic and immediate changes, more so than non-black students, and this article recommends a plan that considers all of the prior recommendations and meshes them with the Chicago school district's current practice for additional safety. That is, SROs should be completely removed but safeguards and restorative social programs must be implemented.

IV. Recommendations

While we recognize that there is an undeniable problem between SROs, students (especially minority students), parents, and school staff to reconcile, the sliding variable is the counterbalance with keeping schools safe. Indeed, the elephant in the room is the concern whether removing SROs completely will expose the school to unprecedented danger. Of course, even one instance of a student being victimized by a trespasser, or a fight between students that was not stopped soon enough is too much. However, it is important to note that certain incidents will happen no matter how many SROs patrol the school's hallways like a prison, armed to the teeth.

As seen through my research posited above, the problem lies within the social gauntlet. While it remains to be scene from a safety purview how terminating contracts with

¹¹⁰ *Id.*

¹¹¹ *Id.*

SROs affects safety years down the line, we can at least conclude that racial disparities exists and that trust in police of all types has dissipated, especially in communities of color. Therefore, treating the first year experiment of removing SROs from schools and Minneapolis and Chicago as if the safety trend continues, in agreement with portions of various views discussed, I will posit that SROs should be eradicated and that other means of safety and learning structure be implemented.

A. School Districts Should Immediately Terminate Their Contracts With SROs

School districts should immediately terminate their contracts with SROs for three reasons: (1) they make no apparent difference in making the schoolgrounds safer, instead, they make schools appear more dangerous through zero tolerance policies and appearances; (2) they are distrusted by the students, parents, and administrators; and (3) they are damaging to the black community in reinforcing a pipeline to prison track.

As we have seen in Chicago, teachers and students actually feel safer without armed officers patrolling the hallways.¹¹² Additionally, in agreement with the Annenberg Report, zero tolerance policies need to be re-examined and instead, a flow chart of how different actions should be punished should be instituted instead.¹¹³ A student should not be forced to the ground and injured because a school principal believes they are selling marijuana.¹¹⁴ As we have seen, the student, often disproportionately of color, is then suspended forcing them to miss valuable

¹¹² Lonetree, Anthony, and Mara Klecker, *In Some Minnesota Schools, Students Return but Police Do Not*, STAR TRIBUNE, (April 24, 2021), www.startribune.com/in-some-minnesota-schools-students-return-but-police-do-not/600049905/.

¹¹³ Lentz School Sec, *The school resource officer/school liaison officer*, LENTZ, School Sec. § 11:7 (2020-2021).

¹¹⁴ Michelle Alexander, *THE NEW JIM CROW*, (The New Press) (2020).

days of class and removing them from the learning environment and instead into a criminal life just to get by, reinforcing the pipeline to prison as Alexander argues.¹¹⁵

B. Metal Detectors and Other Means of Contributing to a Hostile Learning Environment Should Be Eradicated

The penal and harsh disciplinary school environment should be eradicated, and, instead, a more holistic approach needs to be implemented. A student walking into school for a day of learning should not be immediately submitted to large metal detectors, it makes them feel like they are not trusted and are entering a prison. This includes metal detectors, search dogs, security cameras, and tasers.¹¹⁶ As in the Whole School Safety Plan, I agree that schools should implement holistic restorative justice, led by students, parents, community members, administrators, and staff at the schools.¹¹⁷ For example, by demonstrating trust for students, and by treating them like equals and not like prisoners the moment they walk into school, they may want to act to fit the part, and rise up, if need be, instead of acting the part of prisoners.

C. Without SROs, A Safety Committee That Includes Students and Students of Color Should Be Implemented

After schools terminate their contracts with SROs, school safety is still paramount and therefore, a safety committee should be formed that is school specific. While this experiment

¹¹⁵ *Id.*

¹¹⁶ Advancement Project, *Education on Lockdown: The Schoolhouse to Jailhouse Track* 23 (2005).

¹¹⁷ Staff, CBS 2 Chicago, *School Resource Officers Won't Return TO CPS Buildings This Year; LSCs May Opt for Alternatives next Year*. CBS CHICAGO, April 23, 2020. chicago.cbslocal.com/2021/04/23/chicago-public-schools-resource-officers-wont-return-2020-21-local-school-councils/. chicago.cbslocal.com/2021/04/23/chicago-public-schools-resource-officers-wont-return-2020-21-local-school-councils/.

failed in Columbus, Ohio, because it lacked student voice, especially those of color, students should have a say in what would make them feel safer.¹¹⁸

D. School Districts Should Cultivate Better Relationships and Social Services to Students and Parents

Eliminating the harsh penal environment is a step closer to a holistic approach, however, building a better school family and providing social services to them would help keep the schools safe and provide a future that is opposite to the pipeline to prison. Again, in agreement with the Annenberg Report, medical, mental health, and social services provided to students could more effectively deter crime than SROs can.¹¹⁹ As in the Whole School Safety Plan, fostering better relationships with parents with the aim of working together on two fronts, home and at school, could better deter crime and emphasize important learning better than armed officers ever could.¹²⁰ These relationships can aid in implementing social-emotional learning and mental health practices by increasing access to that support, prioritizing repairs in the school, and investing in additional extracurricular activities.

Next, with respect to race, as in Black's work, school administrators need to learn about implicit bias and tackle it head on, or they will never be able to cultivate these relationships. Black asserts that race not only influences how school employees perceive

¹¹⁸ Schwartz, Sarah, et al. *These Districts Defunded Their School Police. What Happened Next*, EDUCATION WEEK, (August 19, 2021), <http://www.edweek.org/leadership/these-districts-defunded-their-school-police-what-happened-next>.

¹¹⁹ Lentz School Sec, *The school resource officer/school liaison officer*, LENTZ, School Sec. § 11:7 (2020-2021).

¹²⁰ Staff, CBS 2 Chicago, *School Resource Officers Won't Return TO CPS Buildings This Year; LSCs May Opt for Alternatives next Year*. CBS CHICAGO, April 23, 2020.chicago.cbslocal.com/2021/04/23/chicago-public-schools-resource-officers-wont-return-2020-21-local-school-councils/.

behavior, but also “enhance[s] perceivers’ detection of behavioral patterns across time.”¹²¹ As discussed further by Black, black students are punished disproportionately for the same transgressions by white students and this is due to implicit bias.¹²²

V. Conclusion

For these reasons, this article recommends that school districts should immediately: (1) terminate their contracts with SROs; (2) end the use of metal detectors and any other means contributing to a hostile learning environment devoid of trust; (3) create a safety committee and include students on it; and (4) provide better social services to the students and parents that matriculate in the school district.

¹²¹ Black, Derek W., *ENDING ZERO TOLERANCE THE CRISIS OF ABSOLUTE SCHOOL DISCIPLINE* 121-123 (New York University Press) (2018).

¹²² *Id.*