



POSITION ON PROPOSED LEGISLATION

BILL: House Bill 0496 – Primary and Secondary Education – Mental Health Services – Expansion (Counselors Not Cops Act)

POSITION: Favorable

DATE: February 3, 2021

The Maryland Office of the Public Defender respectfully and enthusiastically requests that the Committee issue a favorable report on House Bill 496, the Counselors Not Cops Act.

This bill is important because it acknowledges and actively reduces the harms caused by the presence of armed police, colloquially called school resources officers (SROs), in our schools. As public defenders, we work every day with children charged in juvenile and adult court, oftentimes for incidents that take place in school. As our line attorneys see, the presence of SROs directly impacts the school to prison pipeline, easily funneling Black students into the criminal legal system. In December 2018, the Maryland Commission on the School-to-Prison Pipeline and Restorative Practices issued its final report and collaborative action plan.¹ This report detailed how “the use of SROs is linked to increased rates of exclusionary discipline and the criminalization of relatively trivial student behavior. . . . SROs are not trained as educators, but as sworn law enforcement officers with the authority to arrest people. The most common arrests in school are simple assault...and the vague category of ‘disorderly conduct,’ which could be a temper tantrum, cursing, or talking back to a teacher. In other words, ‘children develop arrest records for acting like children.’”² One study has shown when comparing schools with and without police that students are five times more likely to face arrest for disorderly conduct in schools with SROs; additionally schools with SROs are more likely to report non-serious incidents to police than those lacking SROs.³

This is borne out by the most recent arrest data from the Maryland State Department of Education, where during the 2018–19 school year, there were 3,141 student arrests.⁴ Over one-quarter of these arrests, 28%, were for non-violent offenses like theft, trespassing, destruction of property, possession of controlled substances, disruption, and even disrespect. More than half of these arrests, 53%, were for fighting. Overall, SROs conducted 83.6% of the overall arrests. In short, in Maryland we see how the overwhelming majority of school based arrests are for

¹ Maryland Commission on the School-to-Prison Pipeline and Restorative Practices, Final Report and Collaborative Action Plan . (Hereinafter, Commission Report). *Available at* <http://marylandpublicschools.org/stateboard/Documents/AAEEBB/CommissionSchoolPrisonPipeline.pdf>

² Commission Report, at 26. (Hereinafter, Commission Report).

³ DIGNITY IN SCHOOLS CAMPAIGN, A RESOURCE GUIDE ON COUNSELORS NOT COPS 4 (September 2016), http://www.dignityinschools.org/wp-content/uploads/2017/10/Resource_Guide-on-CNC-1.pdf

⁴ Data publicly available at: <http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestDataSY20182019.pdf>

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trivial behavior that is typical of adolescent development, and the majority of these arrests are conducted by SROs.

Ultimately, at least 59% and as many as 94% of these cases were referred to the Department of Juvenile Services for potential prosecution of children for behavior during school.⁵ Whether “paper” (the equivalent of a citation) or physical, the simple fact of an arrest will follow a child on their delinquency history in perpetuity. Even when the Department of Juvenile Services declines to forward a case to the State’s Attorney’s Office to be formally petitioned, the fact that an arrest ever occurred remains on a child’s juvenile record and is often used against a child in later negotiations and proceedings.

Not only do we see every day in our work how police in schools funnel children directly into the courtroom to be prosecuted, but we also hear regularly from our clients how the mere presence of law enforcement changes the learning environment and escalates simple disagreements, contributing to a culture of criminalization and antagonism in schools. Students surveyed during the drafting of the Commission on the School-to-Prison Pipeline echoed similar concerns. Students noted that they “felt stressed about the idea of adding more School Resource Officers on campus” and “agreed that having additional armed officers was not the solution to school safety.”⁶ Students also discussed their uneasiness around law enforcement and feeling the presence of racism in their schools.⁷ Police presence in schools contributes to an overall zero tolerance and punitive learning environment, which has “stigmatizing consequences for all students,” particularly Black and Latino students, as it “reorients school discipline to approach students as potential criminals.”⁸ “There are indications that frequent police contact, even of a minor nature, has a great impact on the perceptions Black and Latino youth have of themselves, school, and law enforcement. If school socializes children to believe that they, themselves, are the target of police in their schools, students no longer see schools as places that nurture their development or teachers as adults who care about their future....Children disengage where they are not safe, and for many, schools have become unsafe places.”⁹ Even when students are not arrested, the experience of being policed in school can fundamentally change how a young person views themselves and experiences in education going forward.

The common response is that police are not present in schools to police children, but rather to protect them from outside threats and intruders. While the underlying disciplinary and arrest data directly refutes this point, it is important to underscore that no national or Maryland study has found that the presence of school police decreases violent incidents at school. Under the Maryland Safe to Learn Act of 2018, schools can either have SROs stationed at schools or rely on “adequate local law enforcement coverage” to respond in case of a school emergency. The reality is that 75% of Maryland public schools rely on adequate law enforcement coverage *instead of* an assigned school resource officer.¹⁰ The notion that SROs are mandatory to keep

⁵ The discrepancy comes from MSDE noting that it is “unknown” whether 1,095 arrests were referred to the Department of Juvenile Services. *Id.* at 14.

⁶ Commission Report, at 76.

⁷ Commission Report, at 76.

⁸ American Civil Liberties Union, “Bullies in Blue: Origins and Consequences of School Policing,” at 30. Available at <https://www.aclu.org/report/bullies-blue-origins-and-consequences-school-policing>.

⁹ “Bullies in Blue” at 31.

¹⁰ Maryland Center for School Safety Adequate Law Enforcement Coverage Report, 2019–20 school year, at 4. Available at <https://schoolsafety.maryland.gov/Documents/Reports-Docs/SRO%20Adequate%20Coverage%20Report-2019.pdf>.

our schools safe is simply untrue, and not even the reality at the overwhelming majority of Maryland public schools.

Finally, we note that the movement to remove armed police officers from our schools comes at a time when we are questioning as a nation the outsized and dangerous role of police in our everyday life, after the deaths of George Floyd, Breonna Taylor, and countless others at the hands of the police. The issues of police brutality are close to home as well: in January 2020, Prince George's County Police Officer Michael Owen shot and killed a handcuffed man in his police car¹¹; this is the same police department that selects and sends SROs to Prince George's County Public Schools. The notion that officers coming from the same police departments at the center of Maryland's police reform debate are equipped to provide a safe and secure environment for students to thrive and learn is incompatible with public evidence of excessive force by the police departments.¹²

Excessive force is just as much a concern in schools as it is in the broader community. Across the country we have seen instances of SROs being physically abusive towards students, including putting them in chokeholds, slamming them to the floor, assaulting them, using pain compliance techniques, tasing students, and handcuffing them as a mechanism of punishment and "treatment."¹³ In Maryland we have seen instances of school police officers using excessive force in recent history:

- Suitland High School, Prince George's County Public Schools, 2014 – A school police officer knelt down to pray, and then punched a 17 year old student in the face for allegedly possessing drugs
- Sherwood High School, Montgomery County Public Schools, 2016 – A school police officer placed a student in a headlock and pinned her to the floor at her senior prom because he believed she was intoxicated
- REACH Partnership School, Baltimore City Public Schools, 2016 – A school police officer is filmed punching and kicking a teenager for allegedly trespassing
- Gen. John Stricker Middle School, Baltimore County Public Schools, 2019 – A school police officer handcuffed a 12 year old autistic student for over 23 minutes, resulting in the student having a broken wrist

The Counselors Not Cops Act is a vital step in ending the school-to-prison pipeline and decarcerating our schools. It deliberately invests in our students' well-being, and holds those

¹¹ <https://www.usatoday.com/story/news/nation/2020/01/28/maryland-police-officer-fatally-shoots-man-handcuffed-cruiser/4595519002/>

¹² Police Shootings: A Washington Post Investigation, WASHINGTON POST, <http://www.washingtonpost.com/wpsrv/content/nation/investigative/policeshootings.html>.; Ruben Castaneda, Officer Liable in Student's Killing, WASHINGTON POST, January 20, 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/01/19/AR2006011902346.html>.; See also, Ta-Nehisi Coates, *Between the World and Me*, Part II (2015); See Prince George Memorandum of Agreement, DEPARTMENT OF JUSTICE, https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/Prince_George_memo_agree.pdf

¹³ Commission Report, at 26; *Bullies in Blue* at 22-24

responsible for our children's well-being accountable by taking three important, evidence-based,¹⁴ steps:

- Redirecting the \$10 million per year from the SRO fund towards student mental health services, wraparound supports, and restorative approaches, so that school districts can hire counselors, social workers, school psychologists, restorative approaches practitioners, community school coordinators, and implement trauma-informed practices.
- Require reporting on the use-of-force by school security and on calls to City or County police for incidents in school.
- Strengthening the School Safety Subcabinet Advisory Board to include families impacted by school-based arrest, and experts in student mental health and conflict resolution.

We believe that these changes are vital in reimagining safety and security in Maryland public schools. Impacted students and families, who are so often excluded from the conversations about what should happen to *them*, will have a seat at the table. We will have enhanced, accurate data on use-of-force in our schools to inform how we can better protect our children from the harms of policing. And, most importantly, we will make a financial investment in the services and supports that we know help children grow into happy, healthy, and productive adults. For these reasons, the Maryland Office of the Public Defender urges a favorable report on House Bill 496, the Counselors Not Cops Act.

¹⁴ Commission Report, at 43-53; Anna Maier et al, Community Schools as an Effective School Improvement Strategy: A Review of the Evidence (2017), https://learningpolicyinstitute.org/sites/default/files/product-files/Community_Schools_Effective_REPORT.pdf; ACLU, Cops & No Counselors: How the Lack of School Mental Health Services is Harming Students (2019), https://www.aclu.org/sites/default/files/field_document/030419-acluschooldisciplinereport.pdf