

February 1, 2021

## Via Electronic Delivery

Anne R. Kaiser, Chair  
Alonzo T. Washington, Vice Chair  
House Ways and Means Committee  
Maryland House of Delegates  
House Office Building, Room 131  
6 Bladen Street  
Annapolis, Maryland 21401

RE: House Bill 496: Primary and Secondary Education – Mental Health Services – Expansion  
(Counselors Not Cops Act) – **Favorable with Amendment**

Dear Chairperson Kaiser and Vice Chairperson Washington:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (LDF),<sup>1</sup> we appreciate the opportunity to submit written testimony in support of House Bill (HB) 496, Counselors Not Cops Act, which would amend the Maryland Safe to Learn Act<sup>2</sup> by directing \$10 million per year to a grant program that would allow local school systems to expand the availability of school-based mental and behavioral health services to Maryland's students. Specifically, HB 496 will address the gap in services provided to students and youth by delivering funding to school districts to hire school psychologists, social workers, and counselors, among other professionals and will expand the availability of restorative approaches, wraparound services, and trauma-informed schools. Funding for school mental and behavioral health professionals and services are necessary components to addressing racial disparities and the criminalization of Black students in Maryland's school discipline practices as well as creating positive school climates that provide the appropriate supports and tools students need to thrive.<sup>3</sup> LDF supports HB 496 and urges this Committee to join national efforts to create police free schools by amending the Maryland Safe to Learn

---

<sup>1</sup> Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in the areas of education, economic justice, political participation, and criminal justice. It has been a separate organization from the NAACP since 1957. LDF's work to address racial inequities in education and police violence and misconduct dates back to its inception. *See, e.g., Brown v. Bd of Education of Topeka, KS* 347 U.S. 483 (1954); *see also, Shepherd v. Florida*, 341 U.S. 50 (1951) (reversing the convictions of Black men accused of raping a white woman in 1949; the men were brutally beaten by sheriff's deputies to force confessions). Today, LDF's Justice in Public Safety Project uses litigation, policy advocacy, research, community organizing, and strategic communications to: (1) ensure accountability for police brutality and misconduct through community oversight and changes to laws and policies; (2) promote policing and public safety practices that eliminate the pernicious influence of racial and other biases; and (3) support a new paradigm of public safety that drastically reduces the presence of armed law enforcement in communities of color.

<sup>2</sup> MD. CODE ANN., EDUC. § 7-1501 *et seq.*

<sup>3</sup> *See* Amir Whitaker, *et. al., Cops and No Counselors How the Lack of School Mental Health Staff Is Harming Students*, ACLU (2020), available at <https://www.aclu.org/report/cops-and-no-counselors>; Cara McClellan, *Our Girls, Our Future: Investing in Opportunity & Reducing Reliance on the Criminal Justice System in Baltimore*, NAACP Legal Defense and Educational Fund, Inc. 2 (2018), available at [https://www.naacpldf.org/wp-content/uploads/Baltimore\\_Girls\\_Report\\_FINAL\\_6\\_26\\_18.pdf](https://www.naacpldf.org/wp-content/uploads/Baltimore_Girls_Report_FINAL_6_26_18.pdf).

Act further to ban the use of funds, to support school police.

## **I. Maryland School Police Officers Have Used Excessive Force and Disproportionately Arrested Black Students, Often for Infractions that Should Be Addressed by School Staff**

In May 2020, the world watched George Floyd, an unarmed Black man, slowly die as a Minneapolis police officer forced his knee into Mr. Floyd's neck while he lay prone on the ground.<sup>4</sup> The incident sparked worldwide mass demonstrations demanding police accountability and an end to racially biased policing.<sup>5</sup> Police violence, however, is not limited to the nation's city streets. It also occurs in schools. Indeed, Maryland school districts have had to address multiple incidents of school police abuse and violence against students. These incidents include:

- In 2016, a Baltimore City school police officer was caught on video slapping and kicking a 16-year-old student. The officer pled guilty to one count of second-degree assault.<sup>6</sup>
- In 2013, a Prince George's County school police officer punched and arrested a high school student. The officer was convicted of second-degree assault, misconduct in office, and reckless endangerment.<sup>7</sup>

Police presence in Maryland schools has not only led to cases of excessive use of force, but it has also resulted in racial disparities in school-based arrests. During the 2018-19 school year, Maryland law enforcement officers made 3,141 arrests statewide, 84% (2,628) of which were by school police officers.<sup>8</sup> Black and white students comprised 56% and 28% of students who were arrested respectively, even though they were only 34% and 37% of the state's student population.<sup>9</sup>

National research shows that while there is no evidence that students of color misbehave more than their white peers,<sup>10</sup> students of color are often disproportionately disciplined for minor, subjective offenses such as "disobedience and disruptive behavior," which are left up to the discretion of school staff,

---

<sup>4</sup> Evan Hill, *et. al.*, *How George Floyd Was Killed in Police Custody*, N.Y. TIMES (May 31, 2020), <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html>.

<sup>5</sup> Jaiver C. Herndandez, *et. al.*, *Global Anger Grows Over George Floyd Death, and Becomes an Anti-Trump Cudgel*, N.Y. TIMES (June 1, 2020), <https://www.nytimes.com/2020/06/01/world/asia/george-floyd-protest-global.html>.

<sup>6</sup> Justin Fenton, *Baltimore school police officer pleads guilty to slapping student*, BALT. SUN (Feb. 14, 2017), <https://www.baltimoresun.com/news/crime/bs-md-ci-school-police-assault-plea-20170214-story.html>.

<sup>7</sup> WUSA 9 Staff, *et. al.*, *PGPD officer sentenced for assaulting HS student*, WUSA 9 (June 2, 2015), <https://www.wusa9.com/article/news/local/suitland/pgpd-officer-sentenced-for-assaulting-hs-student/203292404>.

<sup>8</sup> Maryland State Department of Education, *Maryland Public Schools Arrest Data*, MARYLAND STATE DEP'T OF ED. (2020) <http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestDataSY20182019.pdf>.

<sup>9</sup> Donna St. George, *As activists try to get police out of schools, Maryland arrest data shows racial gap*, WASH. POST (June 24, 2020), [https://www.washingtonpost.com/local/education/as-activists-try-to-get-police-out-of-schools-maryland-arrest-data-shows-racial-gap/2020/06/24/8056414e-b598-11ea-a8da-693df3d7674a\\_story.html](https://www.washingtonpost.com/local/education/as-activists-try-to-get-police-out-of-schools-maryland-arrest-data-shows-racial-gap/2020/06/24/8056414e-b598-11ea-a8da-693df3d7674a_story.html).

<sup>10</sup> See U.S. DEP'T OF EDUC. OFFICE FOR CIVIL RIGHTS, DEAR COLLEAGUE LETTER ON THE NONDISCRIMINATORY ADMIN. OF SCH. DISCIPLINE (2014), available at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html> (citing multiple studies and articles supporting the conclusion that "substantial racial disparities . . . are not explained by more frequent or more serious misbehavior by students of color."). Accord Russell J. Skiba, *et al.*, *Are Black Kids Worse? Myths and Facts About Racial Differences In Behavior: A Summary of the Literature*, INDIANA UNIVERSITY, March 2014, available at: [http://www.indiana.edu/~atlantic/wp-content/uploads/2014/03/African-American-Differential-Behavior\\_031214.pdf](http://www.indiana.edu/~atlantic/wp-content/uploads/2014/03/African-American-Differential-Behavior_031214.pdf).

administrators, and school police who may be more likely to negatively interpret the behavior of certain racial and ethnic groups based on their own conscious or unconscious bias.<sup>11</sup> In Maryland, during the 2018-19 school year, many school-based arrests were for typical childhood behaviors, such as fighting (732), disruption (260), disrespect (25) and trespassing (25).<sup>12</sup>

Police abuse and racial disparities in school-based arrests have led to statewide and national calls for police free schools and investments in programs and services that are proven to improve school climate and keep students and school staff safe, such as restorative practices.<sup>13</sup> HB 496, if passed, would move Maryland school districts in the direction of police free schools by investing in school professionals who would provide appropriate services to students exhibiting mental, behavioral or emotional challenges.

## **II. HB 496 Must Take Additional Steps to Ensure Maryland students interact more with school professionals who help them thrive and less with school police**

Schools must be institutions of learning and support Maryland's youth. Unfortunately, that is not the case today. Some Maryland's schools are wholly under-resourced and thus, unable to provide the environment and services students require to thrive.<sup>14</sup> Research demonstrates that at least 72% of today's students experience at least one major stressful event before they turn 18 and that suicide rates amongst 10-to-17-year old's increased 70% between 2006 and 2016.<sup>15</sup> Research also shows that schools without social services available to students on campus have lower graduation rates than those that provided services on campus.<sup>16</sup> And conversely, "[s]chools that employ more school-based mental health providers see improved attendance rates, lower rates of suspension and other disciplinary incidents, expulsion, improved academic achievement and career preparation, and improved graduation rate."<sup>17</sup> Moreover, school-based

---

<sup>11</sup> NAACP Legal Defense and Educational Fund, Inc., *Locked Out of the Classroom: How Implicit Bias Contributes to Disparities in School Discipline* (2017), available at [http://www.naacpldf.org/files/about-us/Bias\\_Reportv2017\\_30\\_11\\_FINAL.pdf](http://www.naacpldf.org/files/about-us/Bias_Reportv2017_30_11_FINAL.pdf); KIRWIN INST., *RACIAL DISPROPORTIONALITY IN SCHOOL DISCIPLINE* (2014), available at <http://kirwaninstitute.osu.edu/wp-content/uploads/2014/02/racial-disproportionality-schools-02.pdf>; Janel A. George, *Stereotype and School Pushout: Race, Gender, and Discipline Disparities*, 68 ARK. L. REV. 101 (2016); David Simson, *Exclusion, Punishment, Racism and Our Schools: A Critical Race Theory Perspective on School Discipline*, 61 UCLA L. Rev. 506 (2014).

<sup>12</sup> See Maryland State Department of Education, *Maryland Public Schools Arrest Data*, MARYLAND STATE DEP'T OF ED. (2020) <http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestDataSY20182019.pdf>.

<sup>13</sup> Donna St. George, *As activists try to get police out of schools, Maryland arrest data shows racial gap*, WASH. POST (June 24, 2020), [https://www.washingtonpost.com/local/education/as-activists-try-to-get-police-out-of-schools-maryland-arrest-data-shows-racial-gap/2020/06/24/8056414e-b598-11ea-a8da-693df3d7674a\\_story.html](https://www.washingtonpost.com/local/education/as-activists-try-to-get-police-out-of-schools-maryland-arrest-data-shows-racial-gap/2020/06/24/8056414e-b598-11ea-a8da-693df3d7674a_story.html). See also American Federation of Teachers, *AFT expands anti-racism efforts, calls for separating police and schools*, AMERICAN FEDERATION OF TEACHERS (June 18, 2020), <https://www.aft.org/news/aft-expands-anti-racism-efforts-calls-separating-police-and-schools>; Karen W. Webber, et. al., *Restorative Practices in Baltimore City Schools*, OPEN SOCIETY INSTITUTE-BALTIMORE (Sept. 2020), <https://www.osibaltimore.org/wp-content/uploads/2020/09/RP-Report-2020-FINAL.pdf>.

<sup>14</sup> Liz Bowie, *School funding lawsuit filed by civil rights groups can continue, judge says*, BALT. SUN (Jan. 21, 2021), <https://www.baltimoresun.com/education/bs-md-bradford-school-funding-ruling-20200121-xu5meryyfdppayrztld3rsaie-story.html>.

<sup>15</sup> See Amir Whitaker, et. al., *Cops and No Counselors How the Lack of School Mental Health Staff Is Harming Students*, ACLU 4 (2020), available at <https://www.aclu.org/report/cops-and-no-counselors>.

<sup>16</sup> U.S. Department of Education, *Issue Brief: Social Services*, U.S. DEP'T OF ED. 8 (July 2017), available at <https://www2.ed.gov/rschstat/eval/high-school/social-services.pdf>.

<sup>17</sup> *Id.*

health services “not only improve the health outcomes for those students, but also improve school safety.”<sup>18</sup>

Despite this, schools too often prioritize the employment of police officers rather than counselors, nurses, psychologists, and social workers to address students’ underlying needs. In Maryland, there is only one school counselor for every 383 students, one social worker for every 2,324 students, one school psychologist for every 1,198 students, and one nurse for every 917 students.<sup>19</sup> In contrast, 45% of Maryland’s students learn in schools with a police presence and while 37% report a police presence without a psychologist, nurse, social worker, and/or counselor.<sup>20</sup>

HB 496 takes the necessary steps to address this imbalance and provide Maryland’s students, particularly students of color, the education and learning spaces they deserve – ones that are conducive to learning and healing, safe from the harsh punishment meted by law enforcement. Safe school environments are created only through focusing on maintaining a respectful and supportive school environment where students’ emotional and academic needs are met.<sup>21</sup> Programs such as Positive Behavior Interventions & Supports<sup>22</sup> and trauma-informed care<sup>23</sup> are evidence-based and promising means of creating and maintaining supportive school environments. Therefore, we urge the Committee to vote in favor of HB 496 with additional amendments to the Maryland Safe to Learn Act.

Specifically, we urge the Committee to preclude school districts from using the Safe Schools Fund to support the presence of officers in schools.<sup>24</sup> Currently, schools may use the funds to provide training for school resource officers and security employees.<sup>25</sup> However, national studies and research demonstrate that law enforcement presence does not make schools, nor students, safer and too often results in their involvement in routine disciplinary matters best left to educators.<sup>26</sup> As indicated above, school police and

---

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 12-14.

<sup>20</sup> *Id.* at 19.

<sup>21</sup> See, e.g., U.S. Department of Education, *Guiding Principles: A Resource Guide for Improving School Climate and Discipline*, U.S. DEP’T. OF ED. (Jan. 2014), <https://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf>; U.S. Department of Education, *Directory of Federal School Climate and Discipline Resources*, U.S. DEP’T. OF ED. (Jan. 2014), <https://www2.ed.gov/policy/gen/guid/school-discipline/appendix-1-directory.pdf>; *Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates*, U.S. SECRET SERVICE & U.S. DEP’T OF EDUC. (Jul. 2004), available at <https://www2.ed.gov/admins/lead/safety/threatassessmentguide.pdf>. See also U.S. DEP’T OF JUSTICE & U.S. DEP’T OF EDUCATION, *DEAR COLLEAGUE LETTER ON THE NONDISCRIMINATORY ADMINISTRATION OF SCHOOL DISCIPLINE* (Jan. 8, 2014), available at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html> (providing that “[s]chools are safer when all students feel comfortable and are engaged in the school community . . . . Equipping school officials with an array of tools to support positive student behavior . . . will both promote safety and avoid the use of discipline policies that are discriminatory or inappropriate.”); Anya Kamenetz, *Here’s How to Prevent the Next School Shooting, Experts Say*, NPR, Mar. 7, 2018, <https://www.npr.org/sections/ed/2018/03/07/590877717/experts-say-here-s-how-to-prevent-the-next-school-shooting>.

<sup>22</sup> See Jenni Owen, et al., *Instead of Suspension: Alternative Strategies for Effective School Discipline*, DUKE CENTER FOR CHILD AND FAMILY AND POLICY, 2015, available at [https://law.duke.edu/childedlaw/schooldiscipline/downloads/instead\\_of\\_suspension.pdf](https://law.duke.edu/childedlaw/schooldiscipline/downloads/instead_of_suspension.pdf).

<sup>23</sup> See Katy O’Grady, *Transforming Schools with Trauma-Informed Care*, ASCA SCHOOL COUNSELOR, Jan. 2017, available at <https://www.schoolcounselor.org/asca/media/asca/ASCAU/Trauma-Crisis-Management-Specialist/TransformingSchools.pdf>.

<sup>24</sup> MD. CODE ANN., EDUC. § 7-1512(f)(5) and (6).

<sup>25</sup> *Id.*

<sup>26</sup> *Police in Schools Are Not the Answer to School Shootings*, ADVANCEMENT PROJECT (2018), available at <https://www.naacpldf.org/wp-content/uploads/AP-NAACP-LDF-et-al-Police-In-Schools-2018-FINAL.pdf>.

other law enforcement presence results in harsher responses to minor offenses and a greater likelihood that students are arrested and referred to the criminal legal system – a reality that falls disproportionately on Black students.<sup>27</sup> Students who attend schools where a school resource officer is present are more likely to be referred to law enforcement for typical childhood behaviors that previously would have been handled by educators using developmentally appropriate, pedagogically sound interventions.<sup>28</sup> For example, nationwide, police have arrested students, some as young as five years old, for throwing a tantrum, texting, passing gas, violating the school dress code, arriving late, bringing a cell phone to school, or having a nonviolent verbal disagreement with a schoolmate.<sup>29</sup>

Maryland policymakers would not be alone in seeking to limit the harm done to students by police in schools. U.S. Congressional members have recognized the great need for reform and in the last Congress introduced legislation,<sup>30</sup> akin to HB 496, which has received the support of 232 national and local civil and human rights organizations.<sup>31</sup> Additionally, school districts in Minnesota, Colorado, and Oregon have already taken steps to phase out school police and replace them with school professionals who support students.<sup>32</sup> We urge this Committee to do the same by voting favorably for HB 496 with additional amendments that would ban funding for school police. Doing so would create safer learning environments for Maryland's students.

Thank you for considering our testimony. If you have questions, please do not hesitate to contact us at 202-682-1300.

Sincerely yours,

*Puneet Cheema*

Puneet Cheema  
Manager, Justice in Public Safety Project

Lisa Cylar Barrett  
Director of Policy

---

<sup>27</sup> See Ben Brown, *Evaluations of School Policing Programs in the USA*, THE PALGRAVE INTERNATIONAL HANDBOOK OF SCHOOL DISCIPLINE, SURVEILLANCE, AND SOCIAL CONTROL (June 2018), [https://www.researchgate.net/publication/325623800\\_Evaluations\\_of\\_School\\_Policing\\_Programs\\_in\\_the\\_USA](https://www.researchgate.net/publication/325623800_Evaluations_of_School_Policing_Programs_in_the_USA); Chongmin Na and Denise C. Gottfredson, *Police Officers in Schools: Effects on School Crime and the Processing of Offending Behaviors*, 30 JUSTICE QUARTERLY 4 (2013), <https://www.tandfonline.com/doi/abs/10.1080/07418825.2011.615754>.

<sup>28</sup> Jason Nance, *Students, Police, and the School-to-Prison Pipeline*, UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW, 2016, available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2577333](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2577333).

<sup>29</sup> *Id.*

<sup>30</sup> Andrew Ujifusa, *Bill to Help Schools Cut Ties With Police Introduced by Lawmakers*, EDUCATIONWEEK (July 29, 2020), available at <https://www.edweek.org/policy-politics/bill-to-help-schools-cut-ties-with-police-introduced-by-lawmakers/2020/07>.

<sup>31</sup> Support Children's Health and Well-Being: Cosponsor S. 4360/H.R. 7848, the Counseling Not Criminalization in Schools Act, The Leadership Conference on Civil and Human Rights (Dec. 2, 2020), available at <https://civilrights.org/resource/support-childrens-health-and-well-being-cosponsor-s-4360-h-r-7848-the-counseling-not-criminalization-in-schools-act/>.

<sup>32</sup> Moriah Balingit, et. al., *Fueled by protests, school districts across the county cut ties with police*, WASH. POST (June 12, 2020), available at <https://www.washingtonpost.com/education/2020/06/12/schools-police-george-floyd-protests/>.

cc: Delegate Jheanelle K. Wilkins