



# MONTGOMERY COUNTY, MARYLAND WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

[www.womensdemocraticclub.org](http://www.womensdemocraticclub.org)

## **House Bill 1089 – Primary and Secondary Education – Expansion of Mental Health Services and Prohibition of School Resource Officers Ways and Means Committee – March 3, 2021 SUPPORT**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2021 legislative session. WDC is one of the largest and most active Democratic Clubs in our County with hundreds of politically active women and men, including many elected officials.

**WDC urges the passage of HB 1089.** This bill will prohibit school districts from contracting with police agencies for the deployment of police in the public schools. School districts would instead be required to provide adequate local law enforcement coverage to comply with the Maryland Safe to Learn Act. The bill will also redirect a permanent appropriation of \$10 million from subsidizing school resource officers (SROs) to providing mental health services, wraparound services, and behavioral supports for our students. Districts would be able to hire counselors, school psychologists, social workers, and behavioral specialists, develop trauma-informed schools, and implement restorative approaches to disciplinary matters.

We believe Maryland school districts should no longer have the option of deploying school resource officers because the use of SROs has been accompanied by alarmingly high arrest rates for Black students, other students of color, and students with disabilities. Moreover, most of the arrests are for behavior typical of adolescents that should be addressed administratively, not criminalized. This approach to discipline is at odds with State disciplinary policy and does not foster the positive climate that is key to school safety and success. HB 1089 will end a practice that contributes to the school-to-prison pipeline, and will incentivize investments that would help make students feel supported, respected, and valued.

We find the following data and research to be compelling:

**Criminalization of adolescent misbehavior.** We know that schools with SROs have more arrests and are more punitive in addressing misbehavior. A police presence can contribute to a law enforcement orientation to discipline that increases the likelihood that school officials will turn to SROs to handle disciplinary problems, regardless of what any agreement says about the involvement of SROs in school discipline matters. The result is arrests for misconduct typical of adolescents that should have been treated as school code of conduct violations and not criminalized. When an SRO is asked to assist, the officer has discretion in determining whether to make an arrest and is more likely to see misbehavior typical of adolescents from a law enforcement perspective rather than from a developmental perspective or as related to a student's disability.<sup>1</sup> Students in Maryland schools are being arrested for possessing or using

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<sup>1</sup> Aaron Kupchik, Research on the Impact of School Policing. ACLU Pennsylvania (August 2020), <https://fisafoundation.org/wp-content/uploads/2020/08/Research-on-School-Policing-by-Aaron-Kupchik-July-2020.pdf>; Emily M. Homer and Benjamin W. Fisher, "Police in schools and student arrest rates across the United States: Examining differences by race, ethnicity, and gender," Journal of School Violence (2019), [Police-in-schools-and-student-arrest-rates-across-the-United-States-Examining-differences-by-race-ethnicity-and-gender.pdf](https://www.researchgate.net/publication/348940150_Police_in_schools_and_student_arrest_rates_across_the_United_States_examining_differences_by_race_ethnicity_and_gender) (researchgate.net); ACLU, Cops and No Counselors. How the Lack of School Mental Health Professionals is Harming Students (2020): 23, <https://www.aclu.org/report/cops-and-no-counselors>; Benjamin W. Fisher and Emily A. Hennessy, "School Resource Officers and Exclusionary Discipline in U.S. High Schools: A Systematic Review and Meta-analysis," Adolescent Research Review 1, 217-233 (2016): 218-220, 229, <https://doi.org/10.1007/s40894-015-0006-8>; Jason P. Nance, "Students, Police, and the School-to-Prison Pipeline," (November 2,



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tobacco, inhalants, and alcohol; trespassing on school grounds; inappropriate use of electronics; and other kinds of common student misbehavior. For example, 447 students were arrested for disruption in school year 2017-2018, of which 138 were middle and elementary students. Another 487 middle and elementary students were arrested for fighting and attacking others.<sup>2</sup> There is no justification for arresting children for acting like children or making the mistakes that children make.

**Alarmingly high arrest rates and racial disparities.**<sup>3</sup> During school year 2018-2019, there were a total of 3,141 arrests in Maryland public schools—35 per 10,000 students. This rate of arrest was higher than it was in 2015-2016, when Maryland had one of the 10 highest school arrest rates in the country<sup>4</sup>. About 84 percent of the arrests in 2018-2019 were made by SROs. In eight districts the arrest rates exceeded 100 per 10,000 students.<sup>5</sup>

What is even more alarming are the disparities between Black and White students, students of color and White students, and students with and without disabilities. In more than half of Maryland's 24 school districts, representing over 60 percent of enrollment, Black students were at least 3 times as likely to be arrested as White students. In seven districts, the risk of arrest was at least 5 times higher for Black students.<sup>6</sup>

In school year 2018-2019, students with disabilities served under the Individuals with Disabilities Education Act (IDEA) were twice as likely to be arrested as children who were not receiving services under the IDEA. What is even more troubling is that this disproportionate treatment also occurred in districts with very high overall arrest rates. As a result, we see that the arrest rate for students with disabilities in some districts was 3 to 15 times the State average rate of 35 students per 10,000. Moreover, these calculations do not include students with disabilities served under section 504 of the Rehabilitation Act.<sup>7</sup> These disparities are particularly notable because in many cases students with disabilities are

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2015). 93 Washington University Law Review 919 (2016), University of Florida Levin College of Law Research Paper No. 15-20: 976-977, <https://ssrn.com/abstract=2577333>; Development Services Group, Inc., "Interactions between Youth and Law Enforcement." Literature review. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention (2018): 6-7, <file:///C:/Users/Dell/Downloads/826140.pdf>; Amanda Merkwae, "Schooling the Police: Race, Disability, and the Conduct of School Resource Officers," 21 Michigan Journal of Race and Law 147 (2015), <https://repository.law.umich.edu/mjrl/vol21/iss1/6>.

<sup>2</sup>All the arrest data for Maryland cited in this testimony are found in Maryland State Department of Education (MSDE) reports on

<sup>3</sup>All of the calculations in this section use the arrest data cited in footnote 2 and enrollment data found in: MSDE, Maryland Public School Enrollment by Race/Ethnicity and Gender and Number of Schools September 30, 2018. The risk rates were calculated in accordance with the methodology described in Gail L. Sunderman and Erin Janulis, "When law enforcement meets school discipline: School-related arrests in Maryland 2015-16." College Park, MD: Maryland Equity Project, The University of Maryland (2018), <https://education.umd.edu/research/centers/mep/research/k-12-education/when-law-enforcement-meets-school-discipline-school>.

<sup>4</sup> ACLU, Cops (2020): 28 (Table 5).

<sup>5</sup> Calvert (116), Caroline (178), Dorchester (217), Kent (340), St. Mary's (101), Talbot (104), Washington (143), and Wicomico (185).

<sup>6</sup>The highest risk ratios in the State were in: St. Mary's (8), Howard (7), Talbot and Wicomico (6), Anne Arundel, Charles, and Harford (5). In other words, a Black student was 8 times more likely to be arrested than a White student in St. Mary's.

<sup>7</sup>These calculations were done using the MSDE arrest data referred to in footnote 2 and the special education census data in MSDE Early Intervention and Special Education Services Census Data and Related Tables. October 1, 2018, <http://www.marylandpublicschools.org/about/Documents/DCAA/SSP/20182019Student/2019CensusPubSpecEd.pdf>



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engaging in behavior related to their disability. Punishing, instead of supporting, these students, raises civil rights concerns.<sup>8</sup>

## Arrest Data for School Year 2018-2019 for Selected School Districts: Rates of Arrest per 10,000 students<sup>9</sup>

School district: Number of arrests	Arrest rate for all students	Arrest rate for Black students	Arrest rate for White students	Risk of arrest for Black/White	Arrest rate for students with disabilities
Anne Arundel: 356	42.7	109.7	23.5	5 times	108.1
Calvert: 185	116.1	255.6	90.4	3 times	217.9
Charles: 198	73.0	114.7	24.4	5 times	135.9
Harford: 215	56.8	155.8	30.7	5 times	101.3
St. Mary's: 182	101.1	358.6	47.4	8 times	184.0
Washington: 324	142.9	383.4	87.4	4 times	290.7
Wicomico: 185.3	185.3	377.3	60.3	6 times	320.1

These data for school year 2018-2019 are not anomalous. In school year 2017-2018, there were also more than 35 arrests per 10,000 students and arrests of Black students were 3 times more likely than those of White students. In at least five counties, the arrest rate for Black students exceeded 280 per 10,000 students.<sup>10</sup> Moreover, in nine districts more than 30 percent of the arrests were of students with disabilities.<sup>11</sup>

**Unjustifiable racial disparities.** The unequal disciplinary treatment between Black students and White students cannot be explained away by claims that there are differences in behavior among these groups. A report by the Maryland Commission on the School-to-Prison Pipeline found that they are likely to result from inconsistent adult responses to various behaviors. There is a real concern that bias, often unconscious, is coming into play, especially where the adults are making a subjective determination.<sup>12</sup> Thus we see disproportionately high arrests of Black

<sup>8</sup> Merkwae (2015).

<sup>9</sup> These calculations were done using the data and methodology referred to in footnotes 2, 3, and 7.

<sup>10</sup> These were: Caroline, Dorchester, St. Mary's, Washington, and Wicomico.

<sup>11</sup> The districts included: Anne Arundel (40), Baltimore (45), Baltimore County (34), Caroline (35), Prince George's (33), and St. Mary's (54). These calculations include students served under IDEA and under section 504. The Maryland Public Schools Arrest Data for 2017-2018 can be found at <http://marylandpublicschools.org/about/Pages/DSFSS/SSSP/StudentArrest/index.aspx>

<sup>12</sup> Maryland Commission on the School-to-Prison Pipeline, Final Report and Collaborative Action Plan, Report to the Maryland Governor and General Assembly pursuant to House Bill 1287(2017) (December 20, 2018): 29-30, <https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/023600/023694/20190078e.pdf>; See also Adai Tefera, Genevieve Siegel-Hawley, and Rachel Levy, "Why do racial disparities in school discipline exist? The role of policies, processes, people, and places," Richmond, VA. Metropolitan Educational Research Consortium (2017): 5, [https://scholarscompass.vcu.edu/cgi/viewcontent.cgi?article=1103&context=merc\\_pubs](https://scholarscompass.vcu.edu/cgi/viewcontent.cgi?article=1103&context=merc_pubs); Cheryl Staats, Implicit Racial Bias and



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students for “discretionary offenses” such as fighting, attacking others, disruption, and disrespect. Black students were four times as likely as White students to be arrested for attacking another student in Montgomery County Public Schools in 2018-2019.<sup>13</sup> In St. Mary’s and Wicomico schools over 85 percent of the arrests for fighting in school year 2017-2018 were Black students, who represented only 18 percent of the enrollment in St. Mary’s and 37 percent in Wicomico. Sixty-two percent of the arrests for disruption in Maryland schools that year were of Black students, who represented 34 percent of the school population.<sup>14</sup>

**Negative consequences for arrested students.** An arrest threatens a student’s success in school and can affect a student’s future success in irreparable ways. Students who are arrested typically receive out-of-school suspensions, which put them at greater risk of poor academic performance, dropping out, and having subsequent behavioral problems.<sup>15</sup> When arrests are combined with a referral to the Department of Juvenile Services, the negative consequences can be enormous and life-long, especially for Black students. For example, minority youth were 1.59 times as likely to have their case formally petitioned to the juvenile court than White students and were under-represented in cases that were diverted (resolved or adjusted with supervision without formal petition). We know that this contact with the juvenile justice system substantially increases a student’s risk for later involvement in the adult criminal justice system<sup>16</sup>

**Supporting, not harming, students.** Maryland State Department of Education regulations call for a “discipline philosophy based on the goals of fostering, teaching, and acknowledging positive behavior.”<sup>17</sup> The Maryland Commission on the School-to-Prison Pipeline reiterated the importance of problem solving and rehabilitation in creating a positive learning environment.<sup>18</sup> In 2019, the General Assembly passed HB 725, which requires school districts to issue regulations that provide for restorative practices, defined to include all the activities that would be authorized under HB 1089. The removal of SROs would create an opportunity for school officials throughout the State to implement school discipline in a manner that is consistent with State policy to embed restorative practices into the

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School Discipline Disparities (May 2014) Kirwan Institute Special Report,

<http://www.racialequityresourceguide.org/resource/implicit-bias-and-school-discipline-disparities>.

<sup>13</sup>Calculated using the data cited in footnote 2 and the methodology referenced in footnote 3.

<sup>14</sup>Maryland Public Schools Arrest Data for School Year 2017-2018 and MSDE, Maryland Public School Enrollment by Race/Ethnicity and Gender and Number of Schools September 30, 2017, <file:///C:/Users/Dell/Downloads/2018EnrollbyRace.pdf>

<sup>15</sup>Elaine Bonner-Tompkins, Leslie Rubin, and Kristen Latham, The School-to-Prison Pipeline in Montgomery County, March 1, 2016, Office of Legislative Oversight, Montgomery County, Maryland: 96-97;

<https://www.montgomerycountymd.gov/OLO/Resources/Files/2016%20Reports/School%20to%20Prison%20Pipeline%20with%20CAO%20Response%2020166.pdf>; Daniel J. Losen, Cheri L. Hodson, Michael A Keith II, Katrina Morrison, and Shakti Belway,

“Are We Closing the School Discipline Gap?” UCLA: The Civil Rights Project (2015), <https://escholarship.org/uc/item/2t36g571>;

Council of State Governments Justice Center, The School Discipline Consensus Report: Strategies from the Field to Keep Students Engaged in School and Out of the Juvenile Justice System (2014), <https://knowledgecenter.csg.org/kc/content/school-discipline-consensus-report>;

Justice Policy Institute, “Education under Arrest: The Case Against Police in Schools” (November, 2011), <http://www.justicepolicy.org/research/3177>, Nance (2015): 924.

<sup>16</sup> Maryland Department of Juvenile Services, Data Resource Guide (Fiscal Year 2019): 230,

[https://djs.maryland.gov/Documents/DRG/Data\\_Resource\\_Guide\\_FY2019.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2019.pdf); CSG Consensus Report (2014): xviii; OLC (2016): 71-74, 76, 103.

<sup>17</sup>Code of Maryland Regulations 13A.08.01.11.

<sup>18</sup>Maryland Commission on the Pipeline (2017): 33.



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administration of school discipline and to respond to inappropriate behavior in a manner that teaches positive behavior. It is time to stop severely punishing our students and to provide the services they need and deserve to be successful.

**There is a better path to school safety—a positive school climate based on mutual trust, respect, and open communication among all members of the community.** Like many districts, Montgomery County began to hire more and more SROs following the horrific mass shootings in Connecticut and in Florida. We see this as a well intentioned, but misguided, effort to protect our schools and our students. Few people realized that the deployment of SROs would have an especially harmful impact on Black students, other students of color, and students with disabilities, and would not have the desired safety effect.<sup>19</sup> Experts now agree that fostering a positive school climate is the key to safety and that having more counselors, psychologists, and social workers will help to support social, emotional, behavioral, and academic success.<sup>20</sup> The redirection of the SRO funding by HB1089 will help Maryland schools begin to meet the critical shortages of mental health staff and services that are needed to support a proactive approach for safe and healthy schools.

**WDC supports HB 1089 because we believe it is time to end the harm caused by over policing in our schools and to invest in research-based practices that hold the promise of fostering a school environment in which all students feel safe, valued, and supported. We ask for your support for HB 1089 and strongly urge a favorable Committee report.**

Respectfully,

Diana Conway  
President

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<sup>19</sup> For information on the safety effect, see Alexis Stern and Anthony Petrosino, "What do we know about the effects of school-based law enforcement on school safety?" San Francisco, CA: WestEd (2018), <https://files.eric.ed.gov/fulltext/ED595727.pdf>; Kupchik (2020): 2.

<sup>20</sup>Call for Action to Prevent Gun Violence in the United States of America, <https://education.virginia.edu/prevent-gun-violence>.