



Tuesday, November 21, 2017

**STATEMENT OF ASSISTANT CHIEF BRIAN CONROY  
COMMANDING OFFICER, SCHOOL SAFETY DIVISION  
NEW YORK CITY POLICE DEPARTMENT**

**BEFORE THE NEW YORK CITY COUNCIL PUBLIC SAFETY COMMITTEE  
COUNCIL CHAMBERS, CITY HALL  
TUESDAY, NOVEMBER 21, 2017**

Good morning Chair Gibson and members of the Council. I am Assistant Chief Brian Conroy, Commanding Officer of the New York City Police Department's (NYPD) School Safety Division. On behalf of Police Commissioner James P. O'Neill, I would like to thank you for this opportunity to discuss the role of the NYPD's School Safety Division in improving school climate.

At the outset of my testimony today, I believe it is important for me to state that all students need a safe and supportive learning environment to succeed in the classroom and thrive in their community, and the Police Department is committed to providing a secure, supportive, inclusive, and equitable learning environment in every New York City public school. While last year, the 2016-2017 school year, was the safest year on record, ensuring the safety of our students, staff, and families each day is always ongoing and at the forefront of the Police Department and Department of Education (DOE).

It has been over eighteen years since the functions of the Board of Education's Division of School Safety were transferred to the Police Department, giving the Police Department the responsibility for managing school safety personnel and designating School Safety Agents, or SSAs, to be employees of the Police Department. Over the years, members of the Police Department have discussed with the Council the reasons for that change, and the level of crime that dangerously compromised the safety and security of the City's public schools at the time, to the ultimate detriment of the educational mission.

Today, I am pleased to be here to talk with you about the hard work that the School Safety Division has done in improving the safety of the school environment by reducing crime within our schools. Of course, improving school climate and crime within our schools is not something the School Safety Division does on its own. The Police Department and the Department of Education have established a true partnership to work on and through all issues related to school climate, school safety and training. Additionally, we would not be as successful in our mission without our strong working relationships with school principals, school administration, teachers, parents, and, most importantly, the students.

As I mentioned previously, last school year was the safest year on record, with an 18% decrease in major crime from the 2014-2015 school year which was the first full school year under this Administration. Additionally, there was an 8% decrease in school-related arrests and an 11% decrease in the number of summonses issued by the School Safety Division compared to the 2015-2016 school year. Currently, there is a 2% reduction in the 7 major crimes when comparing this school year to last school year. In working in close collaboration with the DOE, we have

focused on referring minor incidents, where appropriate, to school administrators rather than involving a criminal justice response. We have sought to balance holding youth accountable while also utilizing school-based interventions in order to provide opportunities for young people to stay on the path toward college and careers.

Part of our strategy to ensure the safety for our students is to work to prevent weapons from entering our schools. In this regard, magnetometers play an important role. While all intermediate schools and high schools are subject to unannounced scanning, historically there have been 88 intermediate and high school buildings that have been subject to full-time or random scanning. During this year, scanners have been added to an additional 3 schools. Year to date, weapon recoveries have increased by a third when compared to last year. What is critical to note, however, is that while magnetometers are an important tool for recovering dangerous weapons, our community partners are also a valuable resource as well. Through cooperative working relationships with students, school administrators, parents and others, we are identifying more weapons and counting those in the school community among our strongest partners, fostering trust and making our schools safer. Based on a recommendation from the Mayor's Leadership Team on School Climate, clear protocols were established for school principals to request the addition or removal of magnetometers.

We attribute much of our crime reduction success to our enhanced training program for the 5,090 School Safety Agents and 113 Police Officers/Detectives assigned to the School Safety Division. It is not a coincidence that school climate and school safety improved together as our training has been enhanced. Our new School Safety Agent recruits participate in a 17-week training program at the Police Academy. This comprehensive program includes training in the areas of Law, Police Science, Behavioral Science and Physical Education and Tactics and focuses on topics such as bullying, the LGBTQ community, tactical communication and defusing hostility. In order to assist in preparing SSAs for their special role as part of the school community, DOE personnel also participate in our training as instructors, and address specific areas such as special education, school administration, school governance, adolescent suicide, conflict resolution, bullying, child abuse and substance abuse prevention. Training also focuses on how to better work with school administration and students in areas of collaborative problem solving, restorative practices, conflict resolution, de-escalation techniques, and working with special needs students.

Moreover, training does not end at the recruit level for School Safety Agents and uniformed members of the service assigned to the School Safety Division. Agents and uniformed members of the service assigned to the Division receive training throughout the year in such important areas as problem solving, mediating conflicts, and responses to emergency or dangerous conditions such as an Active Shooter incident.

Equally important to the successful work of the School Safety Division are our partnerships and strong working relationships including with elected officials and with organizations and advisory groups outside of City government. As you probably know, the School Safety Division is an

integral part of the Mayor's Leadership Team on School Climate. The leadership of the School Safety Division works with representatives from other City agencies, advocacy groups, union leaders, and school principals to develop new ideas and make policy recommendations that will further improve the school environment and further enhance the positive role that our Police Officers and School Safety Agents have in creating a safe and productive learning environment. Many of the recent changes the School Safety Division has made with respect to training, utilizing school-based intervention, and the sharing of data are a result of the work of this inter-agency, inter-disciplinary team. The work with the Mayor's Leadership Team is ongoing and will play an important role in our efforts to continue to improve school climate.

In 2016, we partnered with the DOE to introduce "TeamUp Tuesday!" in which in which SSAs and officers from local precincts lead students grades K-12 in activities focused on teamwork and leadership. The program brings together students and NYPD personnel in productive activities ranging from visual and performing arts to physical fitness and foreign language lessons. In addition, School Safety Division hosts annual events to empower students to reduce verbal and physical confrontations in their school. By engaging in thoughtful dialogue and interaction, students learn about the resources available to them and our personnel gain a better understanding of students' needs.

One particularly effective partnership has been developed with Bronx Parent Action Committee, a group of concerned parents who meet with us on a regular basis to discuss new ways to handle crime and disorder in schools and to promote positive school culture. This group has also participated in training SSAs and continues to provide valuable feedback and counsel. Furthermore, the NYPD has continued its efforts to build positive relationships and trust with students. Youth programs such as Explorers, the Youth Police Academy, "My School Has Rhythm Not Violence," and our Police Liaison Program have been highly successful in bridging the gap between Police Officers, School Safety Agents and students.

We continue to work with community-based organizations to maintain and help strengthen positive school climate and we welcome the Council's assistance in identifying community groups who could work with us on a local basis toward the same end.

In closing, the Department takes the duty of providing a safe climate in every New York City public school very seriously. The Police Department and the School Safety Division will continue to work in partnership with the Department of Education, parents, students and the community in furtherance of that responsibility.

Thank you for the opportunity to speak with you today, and I am pleased to answer your questions.



**Mayor's Office of Criminal Justice  
New York City Council  
Committee on Public Safety  
November 21, 2017**

Good morning Chair Gibson and members of the Committee on Public Safety. My name is Theron Pride and I am Special Counsel on Justice Initiatives for the Mayor's Office of Criminal Justice ("MOCJ"). I also serve as the newest co-chair for the Mayor's Leadership Team on School Climate, and I am joined by my colleague, Dana Kaplan, who previously served as co-chair and now leads other initiatives at MOCJ. Thank you for the opportunity to testify today and following my brief remarks, Chief Conroy will deliver his testimony.

The Mayor's Office of Criminal Justice advises the Mayor on public safety strategy and, together with partners inside and outside of government, develops and implements policies aimed at reducing crime, reducing unnecessary arrests and incarceration, promoting fairness, and building strong and safe neighborhoods.

Within this context, MOCJ has formed a strong partnership with the New York City Police Department's School Safety Division and the Department of Education to ensure the wellbeing and safety of students and staff in the City's public schools, while minimizing the use of unnecessary suspensions, arrests and summonses. Research shows us that, all things being equal, when students are suspended or arrested in school their chances of being held back in school, dropping out or entering the juvenile justice system increase. In addition, overly punitive responses have been shown to be an ineffective way to improve student behavior and school climate. Furthermore, these punitive responses have been shown to disproportionately impact students of color and students with disabilities, which can have damaging immediate and long-term effects on their development.

As the co-chair for the Mayor's Leadership Team and as someone that has previously worked on these issues as a social worker in public schools, and during my time in the Obama administration at the U.S. Department of Justice, I know improving school climate and reducing crime in our schools is a complex problem that will take all of us to solve.

This is why the City has made significant investments not only in School Safety Agents, but in mental health and other programs in schools that emphasize the importance of fostering a safe and healthy climate. This has included more than \$47 million annually in school climate reforms generally. Additionally, the City recently announced another \$8 million to support anti-bullying initiatives that include: a Bullying Complaint Portal for families; community workshops on

bullying prevention and reduction; Mental Health First Aid training for schools and communities; increased protection from bullying for students; and funding for student-led Gender and Sexuality Alliances and Respect for All clubs.

Improving school climate is a critical issue that we must address because as Mayor de Blasio has said, “No parent should have to choose between a school that’s safe for their child and a school where every student is treated fairly. All our schools can and must be both.” This work is complicated and we have encountered some very tragic moments as we have worked together to improve the climate in our schools, but this has only caused us to redouble our efforts and recommit to this goal of ensuring schools are safe learning environments for all, and every student is treated fairly.

Thank you for the opportunity to say a few words here today and for helping us consider all that we can do to support the wellbeing and safety of our students and staff. We are happy to answer any questions following Chief Conroy’s testimony.

## **TESTIMONY**

The Council of the City of New York  
Committee on Public Safety  
Vanessa L. Gibson, Chair

**Oversight:  
NYPD's School Safety's Role and Efforts to Improve School Climate**

November 21, 2017  
New York, New York

Submitted by:  
The Legal Aid Society  
199 Water Street  
New York, New York 10038

Good morning. I am Cara Chambers along with Nancy Ginsburg. We submit this testimony on behalf of the Legal Aid Society, and thank Chairperson Gibson and the Committee on Public Safety for inviting our thoughts on issues of school climate and the role of NYPD School Safety in New York City's public schools.

The Legal Aid Society is the nation's largest and oldest provider of legal services to low-income families and individuals. As you know, from offices in all five boroughs, the Society annually provides legal assistance to low-income families and individuals in some 300,000 legal matters involving civil, criminal and juvenile rights problems. Our Juvenile Rights Practice provides comprehensive representation as attorneys for children who appear before the New York City Family Court in abuse, neglect, juvenile delinquency, and other proceedings affecting children's rights and welfare. Last year, our Juvenile Rights staff represented more than 33,000 children. During the last year, our Criminal Practice nearly 220,000 cases for clients accused of criminal conduct. Many thousands of our clients with criminal cases in Criminal Court and Supreme Court are teenagers. Annually, our Civil Practice works on more than 46,000 individual legal matters, including advocacy for families with school-age children. Our Criminal, Civil and Juvenile practices engage in educational advocacy for our clients, in the areas of special education, school discipline, school placement and programming. In addition to representing these children each year in trial and appellate courts, we also pursue impact litigation and other law reform initiatives on behalf of our clients.

Our perspective comes from our daily contacts with children, adolescents, and their families, and also from our frequent interactions with the courts, social

service providers, city agencies including the New York Police Department, Department of Education, and Department of Health and Mental Health as well as the Administration for Children's Services.

We urge the Council and the Administration to resist pressure to respond to the troubling violence in our schools by increasing the number of metal detectors and law enforcement personnel in schools. While metal detectors certainly screen out dangerous instruments brought to school, they do not address the underlying reasons students feel the need to bring weapons to school. Failure to address conflicts among students leads them to take matters into their own hands, either inside or outside the school building.

In our experience, metal detectors are flash points for conflict between students and adults in the schools, and can cause lengthy delay in getting into the school building and to class. It can be a particularly difficult experience for students with special needs, mental health issues, and trauma histories and can create a negative school environment. While we recognize that metal detectors may be justified in schools with historically high rates of weapons recovery, there should be clear guidelines on the placement and removal of metal detectors in schools to provide transparency in the process for students and families and an opportunity for review and assessment.

In 2015, Mayor DeBlasio convened the Mayor's Leadership Team on School Climate and Discipline comprised of advocates, government and community leaders. The group examined many issues related to the school environment in an effort to address schools with high rates of suspensions and arrests. This same recommendation regarding the need for clear guidelines on the placement and removal of metal detectors was made by the Mayor's

Leadership Team on School Climate and Discipline.<sup>1</sup> This proposal should be adopted.

We need to do more to ensure that students feel safe and supported in their own schools. This means that adults must be trained and ready to help students negotiate conflict. Studies have shown that the presence of metal detectors is associated with lower student perceptions of safety.<sup>2</sup> Other studies have demonstrated that higher levels of school security measures, including metal detectors and guards were associated with increased school disorder, including violence and perceived disorder.<sup>3</sup> Another study found that students and staff can perceive the presence of metal detectors as an indicator that students are carrying weapons even when they are not, engendering heightened feelings of vulnerability to aggression.<sup>4</sup>

Most importantly, a literature review of multiple studies examining the placement of metal detectors in school *found a lack of a statistically significant association between the presence of metal detectors in school and student*

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<sup>1</sup> Safety With Dignity: Complete Report by the Mayor's Leadership Team on School Climate and Discipline, Phase One Recommendations, July 2015, available at: <http://www1.nyc.gov/assets/sclt/downloads/pdf/safety-with-dignity-final-complete-report-723.pdf>

<sup>2</sup> Hankin, A, Hertz, M., Simon, T. *Impacts of Metal Detector Use in Schools: Insights From 15 Years of Research*, Journal of School Health, Feb. 2011, Vol. 81, No. 2, citing Brown, B. *Controlling crime and delinquency in the schools: an exploratory study of student perceptions of school security measures*, J. Sch. Violence, 4(4):105-125, 2005, available at: <https://www.edweek.org/media/hankin-02security.pdf>.

<sup>3</sup> Hankin, A, Hertz, M., Simon, T. *Impacts of Metal Detector Use in Schools: Insights From 15 Years of Research*, Journal of School Health, Vol. 81, No. 2, c Feb. 2011, citing Gastic B. *At what price? Safe school policies and their unintentional consequences for at-risk students*, Unpublished manuscript, presented at the Annual Meeting of the American Educational Research Association, April, 2006, available at: <https://www.edweek.org/media/hankin-02security.pdf>

<sup>4</sup> *Id.* citing, Garcia, C. *School Safety technology in America: current use and perceived effectiveness*. Crim Justice Policy Rev., 14(1); 30-54, 2003.

victimization. Students in schools with metal detectors were just as likely to report victimization as those in schools without metal detectors.<sup>5</sup>

Metal detectors are expensive, and every dollar spent on the machinery and administration, is a dollar made unavailable for strategies that have been shown to be effective at reducing violence and supporting skill building and pro-social behaviors. New York City should stop investing in band aids and commit to supporting what works in creating a healthy, supportive school environment.

In addition to examining policies related to the placement and removal of metal detectors in schools, The Mayor's Leadership Team on School Climate and Discipline also looked carefully at the role of school safety agents, precinct officers and educators in maintaining school safety and discipline. The Leadership Team concluded that the existing Memorandum of Understanding between the NYPD and the Department of Education, which was drafted in 1998, is outdated and does not adequately delineate the respective roles of NYPD and DOE staff in responding to student conduct.

We strongly endorse the Leadership Team's recommendation that the MOU be revised.<sup>6</sup> A revised MOU must place primary responsibility for maintaining a positive school climate on educators, not police. It should limit law enforcement involvement in minor student misconduct, set forth protocols for handcuffing and searches; clarify responsibilities for parent notification after restraints, summonses or arrests; and establish mandatory training requirements

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<sup>5</sup> Student victimization was defined by the study as theft from the students' locker or desk, theft accompanied by physical force and physical assault. *Id.* citing Schreck, CJ, Miller M., Gibson, CL. *Trouble in the school yard: a study of the risk factors of victimization in school*, Crime & Delinq., 49(3); 460-484, 2003.

<sup>6</sup> For a full description of the recommendations pertaining to the MOU, see *Maintaining the Momentum: A Plan for Safety and Fairness in Schools*, The Mayor's Leadership Team on School Climate and Discipline, Phase Two Recommendations, July, 2016, pages 39-42, available at: [http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT\\_Report\\_7-21-16.pdf](http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT_Report_7-21-16.pdf).

for school safety agents, including training in crisis de-escalation, conflict resolution, the effects of trauma, and strategies for working with students with disabilities. We hope that the NYPD and DOE will continue to work with the Leadership Team and other key stakeholders to draft a document that will provide meaningful guidance to school personnel and law enforcement.

Raising issues of over-reliance on metal detectors and law enforcement personnel in schools does not dilute our concern about violence in our New York City schools. On the contrary, we share the distress of the New York City community on these issues, and regrettably, this distress has been longstanding for those of us who have worked with New York City's young people for many years. We have repeatedly seen that young people who do not feel safe and supported in schools, their neighborhoods or their homes are more likely to resort to desperate measures to protect themselves.

We are failing our children in what should be their right to attend school in safe and supportive environments. We are failing because we have been slow to recognize and take into account the stressors associated with prolonged exposure to poverty, violence, and substance abuse. While we are willing to commit resources to law enforcement, we need to do the same for quality health and mental health care. Moreover, we are quick to blame parents for failures in child-rearing without providing adequate supports to help struggling families.

The only meaningful response to the crisis facing our City's children is to address that crisis head on with funded, integrated services that will address the underlying causes. We must acknowledge that the response has to reach the most affected children and families in order to make a real difference. The saying that "hurt people, hurt people" carries more than a drop of truth. If we don't

address the pain and trauma of the children and families who populate our schools, nothing will change.

As noted earlier, Mayor DeBlasio's Leadership Team on School Climate and Discipline examined many issues related to the school environment in an effort to address schools with high rates of suspensions and arrests. It formed a number of workgroups to examine particular issues. The Resource Integration working group focused on coordinating the delivery of mental health services in the highest need schools with many of the highest needs students. A continuum of mental health services was recommended for the South Bronx and Central Brooklyn, two of the highest needs areas of New York City. The continuum recognized that an effective response system to students and families exposed to poverty and trauma must include a broad range of services including school based and family interventions as well as meaningful connections to mental health services in the community. The recommendations in the second phase of the Leadership Team, which can be read in more detail in the report, were as follows:

**Increase mental health supports for high-need schools to address symptoms and behaviors with a medical model as an alternative to disciplinary action:**

Through the Thrive NYC initiative, the City intends to invest more than \$15 million in mental health supports annually. Funds from this initiative and elsewhere should be targeted to expand mental health supports in the high-need schools that lead the City in school-based arrests, summonses, suspensions and calls to Emergency Medical Service (EMS). In addition, in order to more effectively support the needs of these students, and to reduce unnecessary EMS calls, the City should pilot a comprehensive mental health service continuum in 20 high-need schools in the South Bronx and Central Brooklyn with the highest numbers of EMS calls, suspensions, arrests and summonses. This pilot should include:

- Assessing mental health needs within the school.
- Using hospital-based clinics to support schools.

- Creating a call-in center that provides centralized mental health assessment and support.
- Creating and assigning “school response teams” comprised of mental health professionals.
- Providing whole-school Collaborative Problem Solving training.
- Planning for and assigning four full-time School Behavioral Health Consultants (SBHC) to the twenty pilot schools.
- Providing intensive in-home individual and family behavioral supports for high-needs students.
- Creating a “school behavior analysis and support team.”
- Evaluating and assessing the implemented programming.<sup>7</sup>

Interestingly, these recommendations are aligned with a recent set of recommendations made by the United States Department of Health and Human Services.<sup>8</sup> The report recommended a broad range of services coordinated across agencies to address the mental health needs of students and families, health care systems, child protective and family services systems and schools. Most pertinent to today’s discussion are the following recommendations: ensure that mental health care providers are trained in the use of evidence-based interventions, such as Brief Strategic Family Therapy, Functional Family Therapy and Multi-systemic Therapy to assist parents/caregivers in addressing child and adolescent behavior problems, particularly those with histories of trauma and/or challenging behaviors; facilitate connections among health and mental health professionals and school personnel to ensure that both schools and health care providers are equipped to provide appropriate referrals for youth impacted by bullying; active engagement of health care professionals in bullying prevention to reduce the adverse health outcomes physical and psychosocial

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<sup>7</sup> Maintaining the Momentum: A Plan for Safety and Fairness in Schools, The Mayor’s Leadership Team on School Climate and Discipline, Phase Two Recommendations, July, 2016, available at: [http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT\\_Report\\_7-21-16.pdf](http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT_Report_7-21-16.pdf).

<sup>8</sup> Assessing Prevention Capacity & Implementing Change: an evidence-informed and evidence-based Bullying Prevention Capacity Assessment and Change Package, August, 2017, available at, [https://mchb.hrsa.gov/sites/default/files/mchb/MaternalChildHealthInitiatives/MCHB\\_ChangePkg\\_8-24-17\\_sxf.pdf](https://mchb.hrsa.gov/sites/default/files/mchb/MaternalChildHealthInitiatives/MCHB_ChangePkg_8-24-17_sxf.pdf).

associated with bullying; increase implementation of evidence-based interventions.

One of the specific evidence-based models recommended by the Leadership Team to address the needs of students exhibiting challenging behaviors is Collaborative Problem Solving (CPS). Unlike traditional models of discipline, CPS avoids the use of power, control and motivational procedures and instead focuses on teaching at-risk kids the skills they need to succeed.<sup>9</sup> In the same way that students with learning disabilities struggle with skills in reading, writing or math, research has shown that behaviorally challenging kids lack thinking skills related to flexibility, frustration tolerance and problem solving. Published research has shown that CPS leads to reductions in time spent out of class, detentions, suspensions, injuries, teacher stress, alternative placements in schools and use of physical restraints.<sup>10</sup>

The school safety division of the NYPD has dedicated a significant portion of its training budget to teach CPS to the 5000 school safety agents over the last few years. We have observed a significant impact of this training---there has been a drastic reduction of conflict between students and school safety agents—both verbal and physical. As the agents began to shift the way they interpreted student misbehavior, they developed the skills to redirect students

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<sup>9</sup> <http://www.thinkkids.org/learn/our-collaborative-problem-solving-approach/>

<sup>10</sup> Pollastri, A., Epstein, L., Heath, G., and Ablon, J., *The Collaborative Problem Solving Approach: Outcomes Across Settings*, Harvard Review of Psychiatry, v. 21, p. 188-195, 2013; Greene, R., Ablon, J., Goring, J., Raezer-Blakely, L., Markey, J., Monuteaux, M., Henin, A., Edwards, G. and Rabbitt, S., *Effectiveness of Collaborative Problem Solving in Affectively Dysregulated Children With Oppositional-Defiant Disorder: Initial Findings*, Journal of Consulting and Clinical Psychology, v. 72, no. 6, p. 1157-1164, 2004; Schaubman, A., Stetson, E. and Plog, A., *Reducing Teacher Stress by Implementing Collaborative Problem Solving in a School Setting*, School Social Work Journal, v. 35, no. 2, p. 72-93, 2011; Stetson, E. and Plog, A., *Collaborative Problem Solving in Schools: Results of a Year-Long Consultation Project*, School Social Work Journal, v. 40, issue 2, p 17-36, 2016; Epstein, T., & Saltzman-Benaiah, J., *Parenting children with disruptive behaviours: evaluation of a collaborative problem solving pilot program*, Journal of Clinical Psychology Practice, 1(1), 27-40, 2011.

towards positive behavior rather than stoking unnecessary conflict. We strongly believe that student incidents of misbehavior and teacher stress would decrease if high needs schools and students engaged in CPS practices. We encourage the NYPD to continue providing CPS training for school safety agents.

Mental health professionals are poised to improve the prevention of and response to challenging and disruptive behaviors in school because of their training, collaborative approach and focus on the social and emotional well-being of children, youth and families.<sup>11</sup> Given their experience working with youth and families as well as interpreting the latest in social science research, school and community-based mental health professionals must be integrated into the service delivery system for our highest need students. We encourage the DOE and other City agencies to re-evaluate and implement the recommendations of the Leadership Team to improve mental health delivery to our City's schoolchildren.

Increasing the law enforcement presence and the use of metal detectors as the sole responses to violence in schools where our children are in emotional chaos is akin to putting a band aid on a broken bone. We know what works. New York City must build a meaningful continuum of mental health care to help support students, families and schools. The City has to commit to pay for and support those practices that have demonstrated success, if we truly expect to see our communities heal. Thank you for the opportunity to speak about the critical issue of school climate in New York City's schools.

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<sup>11</sup> Understanding the Roles of Mental Health Professionals in Community-Wide Bullying Prevention Efforts, [stopbullying.gov](https://www.stopbullying.gov), US Department of Health and Human Services, available at: [https://www.stopbullying.gov/sites/default/files/2017-09/hrsa\\_guide\\_mental-health-professionals\\_508.pdf](https://www.stopbullying.gov/sites/default/files/2017-09/hrsa_guide_mental-health-professionals_508.pdf)

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**TESTIMONY OF:**

**Keren Farkas – Supervising Attorney, Education Unit  
*BROOKLYN DEFENDER SERVICES***

**Presented before**

**The New York City Council Committees on Public Safety  
Oversight Hearing on NYPD's School Safety's Role and  
Efforts to Improve School Climate**

**November 21, 2017**

My name is Keren Farkas and I am the Supervising Attorney of the Education Unit at Brooklyn Defender Services (BDS). BDS provides multi-disciplinary and client-centered criminal, family, and immigration defense, as well as civil legal services, social work support and advocacy, for over 30,000 clients in Brooklyn every year. I thank the Committee on Public Safety for holding this hearing and for providing us with the opportunity to testify.

BDS' Education Unit provides legal representation and informal advocacy to our school-age clients. All of our clients are involved with the criminal legal or child welfare systems. A significant percentage are "over-age and under-credited," and have been retained at least one grade. More than half of our clients are classified as students with disabilities. Nearly

all of our teenage clients report at least one school suspension, oftentimes between two and six. As a legal and social work team, we work to improve our clients' access to education. A significant portion of our advocacy relates to school discipline, special education, school reentry from incarceration and suspension, and enrollment in credit recovery and High School Equivalency programs

BDS commends the City Council for its continued attention to policing and discipline practices in our city's schools. Since 2011, the Student Safety Act has provided invaluable insight into school practices, revealing the use of punitive discipline and police involvement at schools that, although lessening overall, continues to disproportionately impact students of color and students with disabilities. Confronted with the data from that law, city agencies, namely the DOE and NYPD, are allocating more resources to school climate reform. Although we are encouraged by the recent investments in pilot positive school-wide programs and school-based mental health services, we believe that all of our city's schools – especially those presenting with the highest rates of suspension, calls to EMS, and arrests – need access to models, such as restorative justice practices and collaborative problem solving, that can positively address student misbehavior and lessen reliance on police. Ultimately, children should never be placed in handcuffs or be subjected to interruptions in schooling as punishment.

### **More School Safety Officers and More Metal Detectors are Not the Answer**

BDS shares the Council's deep concern about any violence in schools. We represent thousands of school-age youth every year and many on our staff are public school parents. However, we firmly believe that school safety officers often function to escalate disciplinary conflicts in schools, rather than de-escalating situations and making the school environment safer for all. We believe that all steps towards a positive school climate will come from increased funding, training and support for educators and school-based mental health clinicians, not criminal enforcement responses.

Keeping schools safe is a uniformly shared objective; where people diverge is how to achieve it. BDS strongly believes that increased police presence and metal detectors at school are not the solution. In fact, we believe that such efforts undermine school safety. School policing has not been found to prevent school violence.<sup>1</sup> Research actually demonstrates that police presence and metal detectors can significantly decrease a student's perception of safety at school and, in turn, lead them to make unsafe choices to protect themselves.<sup>2</sup> Further, school policing criminalizes common adolescent behavior, exposing young people to the criminal legal system, making them more susceptible to future contacts and the litany of collateral consequences.<sup>3</sup>

<sup>1</sup> See, e.g., Advancement Project, *A REAL FIX: THE GUN-FREE WAY TO SCHOOL SAFETY* (2013).

<sup>2</sup> See, e.g., Matthew T. Theriot & John G. Orme, *School Resource Officers and Students' Feelings of Safety at School*, 14 *YOUTH VIOLENCE & JUV. JUSTICE* 130-146 (2016).

<sup>3</sup> See, e.g., Trevor Fronius, Sarah Guckenbug & Anthony Petrosino, *Policing Schools Strategies: A Review of the Evaluation Evidence*, 8 *J. MULTIDISCIPLINARY EVALUATION* 80-101 (2012).

Beyond its questionable efficacy in deterring school violence, a strong law enforcement presence sets a tone of distrust in a school that is not conducive to learning. Student police interaction is linked to poor academic performance and school disengagement.<sup>4</sup> The data mirrors our clients' experience. We regularly meet with young people grappling with the harmful cumulative impact of disruptions to their education due to punitive discipline and the tensions associated with law enforcement presences in schools. Repeated contacts with school safety agents at school, often for non-violent adolescent misbehavior, have damaged not only their attitudes towards school, but their attitudes about themselves and their potential.

I also urge the Council to put incidents of school violence into context. Most incidents of student misbehavior do not involve weapons or guns making shootings or incidents involving dangerous weapons are extremely rare. Adolescent behavior, including misbehavior, is a function of immaturity, disability, mental health, trauma, bullying -- all of which are not issues even the most well-meaning, thoughtful school safety agent is prepared to address. Likewise, they are better addressed by a restorative/preventive approach.

### **Training Trusted School Staff in Crisis De-Escalation & Restorative Justice Is the Answer**

Our city's schools need to shift to a culture where school staff, not police, take the lead in addressing and preventing student misbehavior. That shift requires a thoughtful and systematic financial investment and philosophical commitment to whole-school approaches that promote positive school climates. When schools utilize preventive, restorative approaches that focus on conflict resolution and diffusing problems early, there is an increase in both student social emotional and academic growth.<sup>5</sup> Research shows that comprehensive, consistent implementation of approaches, such as conflict resolution and restorative justice, is also associated with positive teacher-student and student-student relationships, vital indicators of a school culture that can foster learning and safety.<sup>6</sup> The programs are also linked with a reduction in school violence.<sup>7</sup> Increasing the amount of guidance counselors and school based mental health clinicians has similarly been associated with the same benefits to school climate and student safety.<sup>8</sup> These are the resources our city's students deserve.

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<sup>4</sup> See, e.g., Marilyn Armour, *Restorative Practices: Righting the Wrongs of Exclusionary School Discipline*, 50 U. RICHMOND L. REV. 999 (2016).

<sup>5</sup> Thalia Gonzalez, *Keeping Kids in Schools: Restorative Justice, Punitive Discipline, and the School to Prison Pipeline*, 41 J.L. & Educ. 281 (2012).

<sup>6</sup> Anne Gregory & Dewey Cornell, *Authoritative School Discipline: High School Practices Associated With Lower Bullying and Victimization*, 102 J. Educational Psychology 483-496 (2010).

<sup>7</sup> David R. Karp & Beau Breslin, *Restorative Justice in School Communities*, 33 YOUTH & SOCIETY 249-72 (2001).

<sup>8</sup> Randall Reback, *Schools' Mental Health Services and Young Children's Emotions, Behavior, and Learning*, 29 J. POLICY ANALYSIS & MANAGEMENT 698-725 (2010).

Notably, these approaches are found to decrease future conflict, and do so more effectively than police intervention.<sup>9</sup> This change is possible because the techniques actually teach students skills about conflict resolution and critical thinking, which they can draw upon when they will undoubtedly face future disagreements with others. We must not forget that children and adolescents still have developing brains. All of our clients have also experienced trauma and/or poverty that have complicated their development of coping skills. A significant portion of our clients also have emotional disabilities. When schools rely so heavily on school safety agents to address discipline in lieu of positive behavioral approaches, we are not only missing opportunities to instill tools to support their positive development, we can exacerbate the underlying behavioral or mental health challenges.

### **Client Stories**

Unfortunately, we continue to hear instances where School Safety Agents (SSA) unnecessarily insert themselves in situations, or school staff reflexively call upon SSA's to intervene. Recently, a teenage client with known mental health needs did not want to speak with a school administrator and started to walk away. Seven SSA's responded. A well-trained educator, guidance counselor or social worker could have more appropriately addressed and deescalated that situation. Another teenage client had a disagreement with a school official and raised her voice. Three SSA's responded and escorted her to the Assistant Principal's office. In several instances with Kindergarten and 1st grade students with known emotional disabilities, schools have called SSAs and the police to restrain the children following a tantrum.

In these situations, and the many similar ones we see clients experiences, with the right training and staffing, the school could have responded to the situation without police involvement. We believe, and the data affirm, that police responses are comparatively rare or even non-existent in schools with more privileged populations.<sup>10</sup> For instance, with training in Therapeutic Crisis Intervention in Schools (TCIS) or an effective behavior intervention plan, the schools could have used positive practices to help the young children manage their behavior. With the teenage students, they could have utilized guidance interventions, such as restorative circles, where both parties could actively participate in addressing and repairing the harm. By doing so, both the harmed and the harmer can feel valued and learn perspective-taking, empathy, and taking responsibility.<sup>11</sup> Instead, when utilizing punitive measures, we alienate the harmer, often resulting in school disengagement – a reality we repeatedly see for our clients.

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<sup>9</sup> Jason P. Nance, *Dismantling the School-to-Prison Pipeline*, 48 ARIZ. STATE L. J. 313 (2016).

<sup>10</sup> American Civil Liberties Union, *BULLIES IN BLUE: THE ORIGINS AND CONSEQUENCES OF SCHOOL POLICING* (2017), available at [https://www.aclu.org/sites/default/files/field\\_document/aclu\\_bullies\\_in\\_blue\\_4\\_11\\_17\\_final.pdf](https://www.aclu.org/sites/default/files/field_document/aclu_bullies_in_blue_4_11_17_final.pdf)

<sup>11</sup> Trevor Fronius et al, *RESTORATIVE JUSTICE IN U.S. SCHOOLS: A RESEARCH REVIEW*, February 2016, available at [https://jprc.wested.org/wp-content/uploads/2016/02/RJ\\_Literature-Review\\_20160217.pdf](https://jprc.wested.org/wp-content/uploads/2016/02/RJ_Literature-Review_20160217.pdf).

## **School Segregation and School Climate**

We also urge the Council to consider how rampant school segregation may be impacting school climate, school discipline, and access to therapeutic or restorative responses to problematic behavior. The Civil Rights Project of the University of California, Los Angeles issued a report in 2014 finding that New York City has one of the most segregated school systems in the country, and that New York State has the highest school segregation rates.<sup>12</sup> Ample research has confirmed a connection between race and school discipline, with Black students as much as six times more likely to be suspended as compared to their white counterparts.<sup>13</sup> Relatedly, certain public schools with wealthier student populations bring in donor-driven Parent-Teacher Association (PTA) budgets of more than a million dollars, allowing for substantial discretionary spending on a variety of enrichment programs and activities, while others struggle to fundraise at all.<sup>14</sup> This dynamic undoubtedly contributes to inequality in school discipline. Notably, both of the wealthy Upper West Side elementary school featured in *The New York Times* article on wealthy PTAs had zero student removals in 2015, 2016, and to date in 2017, while a nearby elementary school serving many children who live in public housing (PS 191) reported 38, according to DOE data.

### **Policy Recommendations:**

The City Council can play a critical role in fostering safer and more supportive school environments. We recommend that the Council enact many of the reforms called for by the Mayor's Leadership Team on School Climate and Discipline. We focus on four today.

#### **1. Reduce law enforcement presences in schools**

We encourage the City Council to reduce the presence of school safety agents and metal detectors in schools and reallocate the funds to positive behavioral approaches. Research not only indicates that law enforcement presence does not create safer schools; it can detract from a positive school climate and student's social emotional and academic growth. Moreover, there are more effective methods that require increased funding.

#### **2. Expand positive whole-school approaches to address student behavior**

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<sup>12</sup> John Kucsera & Gary Orfield, *NEW YORK STATE'S EXTREME SCHOOL SEGREGATION* (The Civil Rights Project at UCLA 2014), available at <https://www.civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/ny-norflet-report-placeholder/Kucsera-New-York-Extreme-Segregation-2014.pdf>.

<sup>13</sup> Alia Wong, *How School Suspensions Push Black Students Behind*, THE ATLANTIC, Feb. 8, 2016, available at <https://www.theatlantic.com/education/archive/2016/02/how-school-suspensions-push-black-students-behind/460305/>.

<sup>14</sup> Kyle Spencer, *Way Beyond Bake Sales: The \$1 Million PTA*, N.Y. TIMES, June 1, 2012, available at <http://www.nytimes.com/2012/06/03/nyregion/at-wealthy-schools-ptas-help-fill-budget-holes.html>.

We ask the city council to expand funding in whole-school positive methods, such as restorative justice practices, collaborative problem solving and therapeutic crisis intervention. To effectively implement and realize the associated positive benefits in school climate, schools staff need training, ongoing professional development and full-time staff to facilitate whole-school adoption of the approaches and ensure staff receive ongoing coaching.

We are encouraged by the pilot programs, but want to emphasize that there are many more schools that require this investment to counter punitive school discipline tactics and overuse of police. At BDS, we repeatedly encounter the same schools for inappropriate and overly punitive responses to student misbehavior, but none of them are on the current list of pilot schools.

### **3. Expand access to school-based and school-linked behavioral health services**

Particularly for our students facing the toxic stress of poverty, access to school-based or school-linked behavioral health supports is critical to student success and school safety. We are encouraged by Thrive NYC and the Mayor's office's attention to mental illness, its impact on New Yorkers, and the need to invest in resources, such as a continuum of mental health resources for our city's schools. More funding, however, is needed to carry out the thoughtful recommendations of the Mayor's Leadership Team on School Climate and Discipline and provide the range of staffing and services needed to ensure our city's schools can address the root cause of misbehavior, starting with the highest need schools. We urge the city to expand financial investments to ensure our schools, particularly our highest need schools, have access to behavioral health consultants and on site mental health clinicians.

### **4. Increase the number of school-based guidance counselors and licensed social workers**

Guidance counselors can serve a critical role supporting students and implementing guidance interventions, including restorative practices, as an alternative to punitive discipline. Clinically trained staff, particularly LCSW's, can serve an additional important role — particularly working with youth who have experienced trauma, which is tragically very common amongst students in our highest-need schools. Beyond supporting individual students, guidance and social work staff can facilitate successful implementation of whole school reform and supporting all staff in the undertaking.

We urge the City Council to increase staffing and training for guidance counselors.

### **Conclusion**

In short, we need to foster school culture that presumptively approaches *all* student misbehavior as teachable moments. We urge the city to support this goal by passing legislation to support schools to do so without police intervention.

Thank you for your consideration of our comments. If you have any questions, please feel free to reach out to Andrea Nieves in my office at 718-254-0700 ext. 387 or [anieves@bds.org](mailto:anieves@bds.org).



## Testimony by the Center for Popular Democracy

Submitted to the New York City Council Committee on Public Safety Oversight Hearing  
Regarding the Role of the New York Police Department to Improve School Climate  
November 21, 2017

Good afternoon, Chairperson Gibson, and members of the Public Safety Committee. Thank you for providing us with an opportunity to testify today. The Center for Popular Democracy (CPD) is a national organization fighting for racial, economic, and immigrant justice with our network of nearly fifty base-building community organizations in thirty-nine states. CPD's Education Justice Campaign works in collaboration and solidarity with our partners and allies across the country to dismantle the school-to-prison pipeline and ensure that all young people have access to strong public schools.

Today's hearing asks the question: What is the New York Police Department's role in improving school climate? The answer, supported by the evidence, is that there is no role for them in schools. Proponents of school policing and punitive disciplinary action often cite student safety as their primary justification. **Yet research has found that there is no substantial evidentiary support for the proposition that police presence in schools create safe learning environments. To the contrary, several studies show that young people are no safer after years of punitive practices.** Research illustrates that policing in schools does not reduce incidents of bullying or fighting. And young people feel significantly less safe. These practices also push young people out of schools entirely.

In addition to be ineffective, policing in NYC schools create extreme racial disparities. For example, **Black girls are 14.4 times more likely to be arrested than their White peers.** Ninety-seven percent of the young people middle school age or younger who were arrested last year are Black and Latinx, compared to their share in the general population of 67 percent. These disparities are seen despite evidence that young people from different races do not misbehave at significantly different rates. Our schools can and must move away from policies and practices that are ineffective and criminalize young people.

There are three immediate steps the City should make to move away from racist and ineffective policies: **(1) end all arrests, summonses, and juvenile reports in schools for misdemeanors and violations; (2) institute a moratorium on the installation of any new metal detectors and the removal of currently installed machines; and, (3) invest deeply in transformative policies that have been proven to truly create safe and supportive schools – restorative practices, comprehensive mental health care, and significantly more guidance counselors and social workers.**

The Urban Youth Collaborative and the Center for Popular Democracy released a policy brief **“The Young People’s Vision for Safe, Supportive, and Inclusive Schools.”** As you have heard, the report recommendations were developed by youth leaders who have spent years organizing to transform their schools and their communities. In response to calls to return to discriminatory and ineffective school climate strategies, young people are advancing solutions that reimagine school safety and reduce bullying and discrimination by prioritizing and allocating funding for meeting their social, emotional, and mental health needs.

Each of these solutions is supported not only by the experiences of young people, but also the extensive academic studies. The City Council has the opportunity, through the budget cycle, to deeply invest in these youth-driven and research-backed solutions.

Study after study shows that lower student-to-guidance counselor ratios reduce disciplinary incidents in schools, including ones involving weapons, and students and teachers report feeling safer. The current ratio of students to full-time guidance counselors is 1:407, while the recommended ratio in high need schools is 1:100. As a point of comparison, the ratio of students to NYPD School Safety Division personnel is 1:207. Our schools will be safer and bullying will be reduced if New York City drastically increases the number of guidance counselors in schools.

Another recommendation from young people is to infuse restorative practices into all high needs schools. Restorative practices build strong relationships within the school community, which prevents conflict. When conflict does occur, restorative practices emphasize holding each other accountable through communal dialogue. We know these processes work. As just one example, in Denver, within two years of implementing restorative practices in a school, incidents of fighting fell by 80 percent. To reap the benefits of restorative practices, they must be implemented in a robust way – providing funding for restorative justice coordinators, and involving students and community in its implementation. Our schools will be safer and bullying will be reduced if New York City fully implements restorative practices in all high needs schools.

Finally, young people want mental health care. NYC must implement a comprehensive mental health service continuum to connect school-based services with community and hospital-based care. In New York City, antiquated and misguided responses to mental health issues continue to utilize the NYPD as first responders to mental health crises in schools and communities. In just one year, the NYPD reported intervening while a child was experiencing a mental health crisis 2,752 times. Mental health workers need to handle mental health emergencies, and they need the resources to do so. Several studies show that access to mental health care improves the mental health of young people and reduces disciplinary incidents, including fighting and other interpersonal conflict. Our schools will be safer and bullying will be reduced if New York City provides comprehensive mental health services for schools.

Young people have long known the types of support they need to learn and thrive in their schools. The research proves that their solutions will work. The City must head these calls and implement these practices in a transformational, city-wide, way.



## **Policy Brief: Young People's Vision for Safe, Supportive, and Inclusive Schools**

### **INTRODUCTION**

This policy brief provides a blueprint for safe and supportive schools.<sup>1</sup> The young people who navigate interpersonal conflict in schools and experience harm due to harsh policing and disciplinary policies, are uniquely situated to lead the dialogue about developing truly safe and just learning environments. This report highlights priorities from the Young People's School Justice Agenda – the vision for safe, supportive, and inclusive schools developed by youth leaders organizing to transform their schools and communities.\* Supportive approaches to improving school climate are proven to be more effective at helping students address the root causes of conflict and reducing school infractions, thus actually creating safer schools than punitive policies such as suspensions and policing.<sup>2</sup>

When young people close their eyes and think about what they need when they are feeling bullied, need to solve conflict, or want their learning environments to be inclusive, they do not imagine metal detectors and police officers. They imagine safe spaces where they can receive support from staff trained in social and emotional development. When schools allow students to lead efforts to transform school culture and climate, they develop fairness committees, expand peer mediation, build restorative justice teams, and create safe spaces where peers who feel isolated or bullied can build strong and trusting relationships. Students are changing the paradigm of discipline and punishment and advocating for schools to respond to the needs of all students, but especially the most vulnerable students, by pulling every student into systems of support and refusing to expand practices that treat them as disposable.

New York City (NYC) must reimagine safety in its schools by prioritizing what young people need most – comprehensive social, emotional, and mental health supports. This blueprint provides the following recommendations:

- Increase the number of **trained and supervised full time guidance counselors and social workers**. The ratio of student to guidance counselors in underserved schools

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\* The full Young People's School Justice Agenda is presented in a report by the Urban Youth Collaborative and Center for Popular Democracy, "The \$746 Million School-to-Prison Pipeline: The Ineffective, Costly and Discriminatory Process of Criminalizing New York City Students," released in April 2017. The report is available at [populardemocracy.org/STPP\\_Report](http://populardemocracy.org/STPP_Report).

should be 1:100 and at least 1:250 in every other school.

- **Implement Restorative Justice citywide**, focusing on underserved schools. Provide training in restorative practices and funding for schools to hire full-time restorative justice coordinators.
- Create and adequately fund a citywide **mental-health service continuum**. Implementation should focus on bringing support to high-needs schools.

NYC should also cultivate safe and inclusive school environments through the city wide expansion and implementation of Culturally Responsive Education,<sup>3</sup> Comprehensive Sex Education,<sup>4</sup> and Gender and Sexuality Alliances.

Mayor de Blasio's administration has fostered public dialogue around school discipline, limited the use of exclusionary discipline for minor infractions, and provided resources for pilot initiatives to expand the use of positive approaches to school discipline. Under Chancellor Fariña, the Department of Education (DOE) has hired more than 130 new guidance counselors. The New York City Council also made possible the hiring of the first-ever DOE LGBTQ Community Liaison.<sup>5</sup> While these steps represent real progress, far more is left to do. Reforms need to be expanded to scale and be implemented citywide to fully realize a change in culture.

In addition, the city must reverse policies that have proven ineffective at creating safe and supportive environments for students – policies that promote the exclusion and criminalization of students. **In particular, New York City should end arrests, as well as the issuance of summonses and juvenile reports, in schools for non-criminal violations and misdemeanors; institute a moratorium on the installation of new metal detectors in schools, and remove existing metal detectors; and, remove police officers from schools.** The city must divest from systems that harm young people and invest in the support and resources needed to help foster safe and supportive school communities.

## POLICY RECOMMENDATIONS

### **1. INCREASE THE NUMBER OF TRAINED AND SUPERVISED FULL-TIME GUIDANCE COUNSELORS AND SOCIAL WORKERS**

Guidance counselors and social workers provide critical services to create safe and supportive schools. The student-to-guidance counselor ratio needs to be drastically reduced to 1:100 for schools with high needs populations.<sup>6</sup> Schools serving general education students can maintain a 1:250 student to counselor ratio.<sup>7</sup>

NYC currently employs far fewer guidance counselors than needed. A contributing factor to the insufficient staffing levels is a hiring freeze instituted by Mayor Bloomberg in 2009 that set the City's progress back.<sup>8</sup> The current ratio of students to full-time guidance counselors is 1:407.<sup>9</sup> As a point of comparison, the ratio of students to New York Police Department School Safety Division personnel is 1:207.<sup>10</sup>

## *Effect of Counselors and Social Workers on School Safety*

Increasing the number of school counselors has been directly linked to a reduction in fights, bullying, and school infractions. The presence of school counselors has been proven to foster a sense of belonging for young people, and a better relationship between school staff and students.

- One study revealed that additional funding for counselors “reduce[s] the likelihood of disciplinary incidents, such as weapon-related incidents and student suspensions.” In addition, “[i]ncreases in counselors moderate relatively severe behavioral problems.”<sup>11</sup>
- Students attending middle schools with comprehensive counseling programs reported (a) feeling safer in their schools, (b) better relationships between students and teachers, which was also correlated with feeling safer in school and attending a school where there were fewer problems with the interpersonal and physical environment, (c) greater satisfaction of students with the education they were receiving in their schools, (d) perceptions that one's education was more relevant and important to one's future, and (e) earning higher grades.<sup>12</sup>
- Lower student to counselor ratios decrease “both the recurrence of student disciplinary problems and the share of students involved in a disciplinary incident.” These findings were even more pronounced for students of color and students in poverty.<sup>13</sup>
- The implementation of a minimum counselor-to-student ratio or counselor subsidy in elementary schools “reduces the fraction of teachers reporting that their instruction suffers due to student misbehavior and reduces the fractions reporting problems with students physically fighting each other, cutting class, stealing, or using drugs.”<sup>14</sup>

### *Policy Recommendation for New York City*

In the last few years, New York City has begun to hire more school guidance counselors and social workers.<sup>15</sup> This is important and has added necessary capacity to some schools, but far too many schools still lack an adequate number of guidance counselors. With a 1:407 student-to-full-time-guidance-counselor ratio across the school system, further and more rapid investment is still urgently needed.

- **Hire guidance counselors to match the recommended 1:100 student-to-guidance-counselor ratio in high needs schools.** Over the next two years, NYC should reach 1:100 in high needs schools. In the next five years, the City should hire enough guidance counselors to maintain the 1:100 ratio in high needs schools and reach 1:250 ratio in the remaining public schools.
- **Provide sufficient supervision structures for guidance counselors:** Due to the great deficiency in the number of guidance counselors employed by the city, guidance counselors are often unsupervised. To meet the ethical standards of the profession and ensure young people are receiving the best care, guidance counselors must be supervised by experienced professionals.

*"Too often, I have seen a lack of support for students, myself included, because there is a lack of guidance counselors in schools. By having one guidance counselor for every 100 students, a counselor's workload will not only lessen, but the depth of the relationships they have with students will deepen."*

*Maybelen, Urban Youth Collaborative*

## 2. IMPLEMENT RESTORATIVE JUSTICE CITYWIDE IN ALL UNDERSERVED SCHOOLS

Restorative approaches have emerged as one of the most effective methods of shifting school policies toward creating nurturing, inclusive, and supportive schools.<sup>16</sup> Restorative Justice focuses on building strong relationships between everyone in the school community. These supportive relationships often prevent conflict from ever occurring. In dealing with conflict, restorative justice aims to heal relationships by bringing together everyone impacted by wrongdoing and collectively considering the needs and responsibilities of those involved.<sup>17</sup> Restorative practices emphasize holding each other accountable through communal dialogue that promotes inclusivity, constructive engagement and the restoration of relationships, rather than punishment and exclusion. NYC has begun pilot initiatives bringing restorative practice training to all schools in District 18 and providing fifteen schools with funding to bring on a Restorative Justice Coordinator.<sup>18</sup>

*“Punitive measures don’t get to the root of the problem and don’t provide help for people who have been harmed or have created the harm. Restorative Justice helps resolve conflict and tension, and helps people move forward, create safe spaces and build a supportive community.”*

*Julian, Urban Youth Collaborative*

### *Effect of Restorative Justice on school safety*

Restorative practices have effectively improved school climate and reduced disruptive behavior and incidents involving fighting.<sup>19</sup> For example:

- The implementation of restorative practices in a Philadelphia school reduced violent and serious incidents by more than 52 percent in the first year and an additional 40 percent the following year.<sup>20</sup>
- In Denver, within two years of implementing restorative practices in a school, incidents of fighting fell by 80 percent.<sup>21</sup>
- Within one year, the implementation of restorative practices in an Oakland high school led to a 77 percent reduction in violence and elimination of racial disproportionality in discipline.<sup>22</sup>

### *Policy Recommendation for New York City*

To reap the benefits of restorative practices, they must be implemented in a robust way. Here are core elements of implementing effective restorative justice:

- **Full-time restorative justice coordinator:** Schools need dedicated personnel for implementation of Restorative Justice practices. This person will drive the creation and delivery of trainings to the whole staff. The restorative justice coordinator will also facilitate restorative circles.
- **School-wide training and practice:** To truly be effective, restorative approaches need to be embedded within the school. To ensure community understanding and investment in this process, the coordinator needs to be given the resources to run regular trainings throughout the year.
- **Leadership of young people and parents:** Young people are necessary to the implementation of restorative practices. Their leadership should be leveraged to develop

and participate in running the restorative practices in their own schools. Parents also shape much of the school culture and their involvement in restorative practices can maintain the continuity between school and home.

- **Community involvement:** Restorative Justice offers schools the opportunity to develop partnerships with community based organizations with experience, expertise, and credibility in developing community solutions for safety beyond punishment and incarceration.

### 3. CREATE A CITYWIDE MENTAL-HEALTH CONTINUUM, STARTING IN UNDERSERVED SCHOOLS

In New York City, antiquated and misguided responses to mental health issues continue to utilize the NYPD as first responders to emotional and mental health crises in schools and communities. In just one year, the NYPD reported intervening during a “child-in-crisis” incident, which reflects a child experiencing what the NYPD perceives as a mental health emergency, 2,702 times and more than 1,300 students were sent to the emergency room for an emotional or psychological need.<sup>23</sup> Ninety-two percent of the young people “in crisis” were Black or Latinx.<sup>24</sup> More than 96 percent of the students who the NYPD reported handcuffing during these incidents were Black or Latinx.<sup>25</sup> Aside from mitigation, this was the most frequent type of police activity in schools.<sup>26</sup> Interactions such as these often re-traumatize vulnerable young people and bring them closer to the criminal legal system as opposed to mental and emotional health support systems.

#### *Effect of Mental-Health Care on School Safety*

Effective mental health care in school has been demonstrated to improve the overall health of young people, regulate their behavior, and encourage cooperative problem solving. Access to mental health care has improved behaviors in the school and decreased disciplinary actions.<sup>27</sup> For example:

- A study examined three school-based mental health clinics. All of the clinics reported fewer fights, improved student attitudes and behaviors, fewer suicide attempts, and increased student visits for mental health services.<sup>28</sup>
- A D.C. school based program that provides a continuum of care recorded significant improvements in young people’s mental health. More than 40 percent of clients demonstrated measured improvement in problem severity and overall functioning.<sup>29</sup>
- A meta-analysis of the impact of school mental health interventions found that 62.5 percent of the interventions studied “demonstrated dually positive outcomes in regards to both mental health and education.”<sup>30</sup>

#### *Policy Recommendation for New York City*

NYC must design a network of mental health services to support students along a spectrum of mental health needs. The network should provide the resources and infrastructure necessary to bring intensive support services to students within schools. As recommended in the Mayor’s Leadership Team on School Climate and Discipline report released in July 2016, this continuum would connect in-school services with more intensive external services including existing hospital-based mental health clinics.<sup>31</sup>

- **Components of the continuum:** The continuum requires the city to establish school relationships with hospital-based clinics. In addition, call-in centers staffed by experienced mental health clinicians should be established to field calls from schools. These clinicians can help schools evaluate what constitutes a crisis and reduce the overuse of emergency rooms. School Response Teams, each working with four schools, would work with students and also help the school officials learn how to better respond to mental health needs. Over a three-year timeframe the whole schools involved in this continuum should be trained in Collaborative Problem-Solving. Full-time school-based Behavioral Health Consultants should be hired to each work with five schools. Finally, the Department of Education should work with community organizations to ensure that there is robust data collection and program evaluation of this continuum.
- **Focus on high need schools:** The city must address the mental health service deficiencies in a comprehensive citywide method. Starting this citywide process with a focus on the highest need schools will have the greatest effect. More than 60 percent of all child in crisis interventions are in just 32 percent of the city's precincts.<sup>32</sup>

*“Being an Afro-Latino LGBTQ man with a disability, I’m often targeted. One day in school I got really upset. The school ended up calling the School Safety Agent up to the classroom. When I saw them it made me even angrier. The school then called EMS. EMS arrived as well as police from the local precinct. At that point, I felt surrounded by police. That made me even more agitated. One put their hand on my arm and I screamed that no one should touch me. I was then handcuffed and taken to the hospital for a psych evaluation. It was really messed up. After this, I was immediately put on suspension and had to go to a Superintendent’s Suspension hearing. The school was threatening to suspend me for a year. I couldn’t believe it. I went to the hearing and the lawyer helped me to get immediately reinstated at school. Especially for students with disabilities and behavioral plans, like I have, these steps are not supposed to be taken by a school.”*

*Markeys, Make the Road New York*

#### 4. CREATING INCLUSIVE SCHOOL ENVIRONMENTS

Ensuring safe schools will require inclusive school cultures. There are several programs, that have the support of young people, which create inclusive environments. Schools should provide Culturally Responsive Education (CRE). CRE is a method of rigorous, student-centered education that cultivates critical thinking instead of just test-taking skills; relates academic study to contemporary issues and students’ experiences; fosters positive academic, racial and cultural identities; develops students’ ability to connect across cultures; and, empowers students as agents of social change.<sup>33</sup>

In addition, Gender and Sexuality Alliances provide LGBTQ youth the space to express themselves. Starting these alliances with NYC schools will create safer spaces for LGBTQ young people. Finally, implementation of Comprehensive Sexual Education in all New York City schools will provide young people with the information they need to stay safe and the ability to make informed choices.<sup>34</sup>

## 5. END POLICING AND PUNITIVE PRACTICES IN SCHOOLS

Policing in NYC schools create extreme racial disparities. For example, Black girls are 12.7 times more likely to be arrested and 6.7 times more likely to be issued a summons than their White peers.<sup>35</sup> Black boys are 7.5 times more likely to be arrested and 4.6 times more likely to receive a summons than White boys.<sup>36</sup> In April 2017, Urban Youth Collaborative and the Center for Popular Democracy released a report, *The \$746 Million School-to-Prison Pipeline: The Ineffective, Discriminatory, and Costly Process of Criminalizing New York City Students*, which highlighted more of these disparities along lines of race and disability.<sup>37</sup>

*“School Safety Agents, to me, are just there to criminalize us with their hand wands, metal detectors, and always giving out summonses. But when you want to talk to a counselor or someone like that, you can’t talk with them. They are always busy.”*

*Brandon, Make the Road New York*

Police in schools largely police low-level offenses, including normal youthful behavior. Nearly 78 percent of all arrests, summonses, and NYPD juvenile reports of young people in NYC schools are for misdemeanors and violations.<sup>38</sup> Research continues to show “broken windows” policing and criminalizing normal adaptive youthful behavior fails to correspond with safety, despite the belief that harshly punishing, policing, and incarcerating young people of color creates safer communities.<sup>39</sup> Our school communities should not rely on ineffective policies and practices that create pervasive and persistent racial injustices across multiple city agencies.

### *Effect of Policing and Criminalization on School Safety*

Proponents of school policing and punitive disciplinary action often cite student safety as their primary justification. Yet there is no substantial evidentiary support for the proposition that police presence in schools and suspensions create safe learning environments.<sup>40</sup> To the contrary:

- A 2017 report from the Vera Institute of Justice shows increased incarceration has no association with lower violent crime rates; increased incarceration may actually increase crime; and, incarceration has only a minimal impact on property crimes.<sup>41</sup>
- A 2016 report from the NYPD’s Inspector General found “no empirical evidence demonstrating a clear and direct link between an increase in summons and misdemeanor arrest activity and a related drop in felony crime” in communities.<sup>42</sup>
- Policing in schools does not reduce incidents of bullying or fighting.<sup>43</sup> Studies have shown that schools are no safer, even after years of punitive policing and disciplinary measures, than before such policies are implemented.<sup>44</sup>
- After reviewing several empirical studies examining the effectiveness of metal detectors, researchers found that there is insufficient evidence to demonstrate that metal detectors reduce school violence.<sup>45</sup>
- Rather than reduce school violence, scholars have found that the presence of police merely criminalizes typical adolescent behavior, such as disorderly conduct, even among similarly situated schools.<sup>46</sup>

### *Policy Recommendation for New York City*

To reimagine safety in schools by prioritizing the social, emotional, and mental needs of young people it is critical that NYC divest from systems that harm communities of color and reinvest

those resources in the priorities outlined in the Young People’s School Justice Agenda. Divesting from the criminalization of normal adaptive behavior of young people of color will require:

- **Ending arrests, summons, and Juvenile Reports in schools for non-criminal violations and misdemeanors. Create alternatives to arrests for felonies:** The NYPD should issue an Operations Order to end the practice of arresting and issuing summonses and juvenile reports to young people in school for low-level violations and misdemeanors. These policies will ensure that no student is torn away from their family or community, thrown into the criminal legal system, or made vulnerable to targeting for detainment and deportation by federal authorities.
- **Removing police officers and metal detectors and reallocating school policing funds for safe and supportive school priorities:** As the research demonstrates, police do not create safer schools and the city’s current policing system has deepened existing racial inequities. Disciplinary matters should be handled within the school community through restorative practices, not through the criminal legal system. Metal detectors also do not keep young people safe or address the underlying causes of interpersonal conflict. Instead, metal detectors create a flashpoint between students and police and make students feel criminalized as soon as they enter the school building and ultimately disrupts any other efforts to ensure safe and supportive schooling environments.
- **Expunge students discipline records and prohibit sharing discipline records with colleges and universities:** Thousands of students already have discipline records due to overly-punitive suspension practices. The city should expunge young people’s criminal and discipline records, particularly in recognition of the racial inequities in punishment.
- **Transform school based punitive discipline:** In addition to shifting away from punitive policing towards restorative practices, school-based discipline must transform. Some concrete policies to advance that change are ending suspensions for B21/A22 Defying Authority; mandating guidance interventions before the use of suspensions; and ending suspensions for Kindergarten - 3rd grade.

*“So many students end up dropping out because of the police in schools and all these suspensions. Students know that if they get suspended, they know there are jail cells being built for them. The message is clear.”*

## CONCLUSION

*Estefany, Make the Road New York*

New York City is on the precipice of moving towards school culture and climate priorities that are designed to meet the social, emotional, and mental health needs of young people, or moving back towards ineffective policies and practices that end up harming students who are most in need. By following the vision of young people New York City can ensure safe and supportive schools and finally break the school-to-prison pipeline. Young people are calling for solutions that address the root causes of bullying and conflict and lift up and recognize their humanity.

Young people have expressed a vision for their future. They see a future filled with hope and powerful contributions towards creating a just and thriving city for all communities. It is a future which depends on deeper learning and on schools that provide the support they need with ample opportunities to grow and thrive. To achieve this vision, New York City must invest deeply in creating citywide systems for hiring guidance counselors and social workers to meet the needed standards, implement restorative practices in all schools, and invest in comprehensive mental

health services that connect school-based mental health care to community and hospital based services. These are the needs of our young people. Youth leaders are prepared to help New York City achieve these goals. City officials must work directly with young people to help drive and implement the progressive policies that will ensure their safety and cultivate learning environments where all young people are valued and brought closer to networks of support.

*“The spending on the criminal justice system has meant: more beds in jail for black and brown bodies; an explosion of broken windows and abusive policing; and schools that abound with police officers, while lacking the arts and physical education, guidance counselors, college counselors, and restorative justice programs we need. New York must learn from its costly mistake and radically transform our funding priorities. Reinvesting in our communities means we would have an opportunity to grow up in healthy, sustainable environments full of love. For young people like me, investing in our communities literally means the difference between life and death.”*

*Zion, Make the Road New York*

## ENDNOTES

<sup>1</sup> The report's main authors are the young people from Urban Youth Collaborative, supported by Katherine Terenzi from the Center for Popular Democracy, Roberto Cabañas from the Urban Youth Collaborative, and Kesi Foster and Sarah Landes from Make the Road New York.

<sup>2</sup> Jason P. Nance, Dismantling the School-to-Prison Pipeline, *ARIZONA STATE LAW JOURNAL* 48 (2016); *citing* Matthew P. Steinberg, et al., UNIV. CHI. URBAN EDUC. INST., Student and Teacher Safety in Chicago Public Schools: The Roles of Community Context and School Social Organization 46 (2011).

<sup>3</sup> COALITION FOR EDUCATIONAL JUSTICE, RACIAL JUSTICE IN THE CLASSROOM: CEJ PLATFORM FOR CULTURALLY RESPONSIVE EDUCATION (2017), *available at* [http://www.nyccej.org/wp-content/uploads/2017/03/Final\\_Platform.pdf](http://www.nyccej.org/wp-content/uploads/2017/03/Final_Platform.pdf).

<sup>4</sup> Scott M. Stringer, NEW YORK CITY COMPTROLLER, HEALTHY RELATIONSHIPS: A PLAN FOR IMPROVING HEALTH AND SEXUAL EDUCATION IN NEW YORK CITY'S SCHOOLS (2017).

<sup>5</sup> *Compare* NEW YORK CITY DEPARTMENT OF EDUCATION REPORT ON GUIDANCE COUNSELORS; PURSUANT TO LOCAL LAW 56 OF 2014; February 15, 2017; NEW YORK CITY DEPARTMENT OF EDUCATION REPORT ON GUIDANCE COUNSELORS; PURSUANT TO LOCAL LAW 56 OF 2014; February 15, 2015, *both available at*

<http://schools.nyc.gov/community/city/publicaffairs/Guidance+Counselor+Reporting.htm>; *see also* Rebecca Klein, New York City Schools Take Historic Step Forward For Gay Kids, HUFFPOST (Feb. 3, 2016),

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<sup>6</sup> EDUCATORS FOR SOCIAL RESPONSIBILITY, INCREASING COLLEGE ACCESS THROUGH SCHOOL-BASED MODELS OF POSTSECONDARY PREPARATION, PLANNING, AND SUPPORT (2009),

<http://www.engagingschools.org/wp-content/uploads/2014/05/Increasing-College-Access.pdf>; *see also* THE

MAYOR'S LEADERSHIP TEAM ON SCHOOL CLIMATE AND DISCIPLINE, MAINTAINING THE MOMENTUM A PLAN FOR SAFETY AND FAIRNESS IN SCHOOLS (2016), *available at* [http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT\\_Report\\_7-21-16](http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT_Report_7-21-16) (noting a 1:100 ratio goal in high needs districts);

ENGAGENY, SCHOOL COUNSELOR UPDATE (2015), *available at*

<https://www.regents.nysed.gov/common/regents/files/meetings/SchoolCounselor.pdf> (referencing a preferable 1:100 ratio).

<sup>7</sup> AMERICAN SCHOOL COUNSELOR ASSOCIATION, POSITION STATEMENT: COMPREHENSIVE SCHOOL COUNSELING PROGRAMS (2017),

[https://www.schoolcounselor.org/asca/media/asca/PositionStatements/PS\\_ComprehensivePrograms.pdf](https://www.schoolcounselor.org/asca/media/asca/PositionStatements/PS_ComprehensivePrograms.pdf).

<sup>8</sup> Philissa Cramer, No new hires, a cash-strapped DOE instructed principals today, CHALKBEAT (May 6, 2009),

<https://www.chalkbeat.org/posts/ny/2009/05/06/no-new-hires-a-cash-strapped-doe-instructed-principals-today/>.

<sup>9</sup> *Compare* NEW YORK CITY DEPARTMENT OF EDUCATION REPORT ON GUIDANCE COUNSELORS; PURSUANT TO LOCAL LAW 56 OF 2014; February 15, 2017 (noting that NYC has 2,800 full-time guidance counselors); NEW YORK CITY DEPARTMENT OF EDUCATION, DEMOGRAPHIC SNAPSHOTS (SY 15-16), *available at* <http://schools.nyc.gov/Accountability/data/default.htm> (providing demographic information on general school population – noting a student population of 1,141,232 students).

<sup>10</sup> *See* THE CITY OF NEW YORK, ADOPTED BUDGET FISCAL YEAR 2017: SUPPORTING SCHEDULES, 724 (Fulltime headcount for School Safety Division equal 5,511).

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<http://faculty.econ.ucdavis.edu/faculty/scarrell/counselors2.pdf>.

<sup>14</sup> Reback, Randall, Schools' Mental Health Services and Young Children's Emotions, Behavior, and Learning, *JOURNAL OF POLICY ANALYSIS AND MANAGEMENT* (2010) 29(4), *available at*

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<sup>15</sup> *See above* note 9.

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<sup>16</sup> THE OUSD RESTORATIVE JUSTICE TEAM, RESTORATIVE JUSTICE FOR OAKLAND YOUTH & BE THE CHANGE CONSULTING, OAKLAND UNIFIED SCHOOL DISTRICT RESTORATIVE JUSTICE IMPLEMENTATION GUIDE: A WHOLE SCHOOL APPROACH, 2, available at <http://rjoakland.org/wp-content/uploads/OUSDRJOY-Implementation-Guide.pdf>.

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<sup>18</sup> NYC Department of Education, SCHOOL ALLOCATION MEMORANDUM NO. 69, FY 2018 (Aug. 22, 2017), [http://schools.nyc.gov/offices/d\\_chanc\\_oper/budget/dbor/allocationmemo/fy17\\_18/fy18\\_pdf/sam69.pdf](http://schools.nyc.gov/offices/d_chanc_oper/budget/dbor/allocationmemo/fy17_18/fy18_pdf/sam69.pdf) (noting the 15 schools that receive funding for coordinators); see also THE MAYOR'S LEADERSHIP TEAM ON SCHOOL CLIMATE AND DISCIPLINE, MAINTAINING THE MOMENTUM A PLAN FOR SAFETY AND FAIRNESS IN SCHOOLS (2016), available at [http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT\\_Report\\_7-21-16.Pdf](http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT_Report_7-21-16.Pdf) (explaining the District 18 implementation of restorative justice).

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

<sup>26</sup> *Id.*

<sup>27</sup> Jennings, J., Pearson, G., & Harris, M., Implementing and maintaining school-based mental health services in a large, urban school district. JOURNAL OF SCHOOL HEALTH, (2000) 70, 201–206.

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<sup>30</sup> Hoagwood, K. E., Olin, S. S., Kerker, B. D., Kratochwill, T. R., Crowe, M., & Saka, N., Empirically based school interventions targeted at academic and mental health functioning. JOURNAL OF EMOTIONAL AND BEHAVIORAL DISORDERS, (2007) 15, 66-92.

<sup>31</sup> THE MAYOR'S LEADERSHIP TEAM ON SCHOOL CLIMATE AND DISCIPLINE, MAINTAINING THE MOMENTUM A PLAN FOR SAFETY AND FAIRNESS IN SCHOOLS (2016), available at [http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT\\_Report\\_7-21-16.pdf](http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT_Report_7-21-16.pdf).

<sup>32</sup> NYPD 2016-2017 SSA Reports by Precinct.

<sup>33</sup> COALITION FOR EDUCATIONAL JUSTICE, RACIAL JUSTICE IN THE CLASSROOM: CEJ PLATFORM FOR CULTURALLY RESPONSIVE EDUCATION (2017), available at [http://www.nyccej.org/wp-content/uploads/2017/03/Final\\_Platform.pdf](http://www.nyccej.org/wp-content/uploads/2017/03/Final_Platform.pdf).

<sup>34</sup> Scott M. Stringer, NEW YORK CITY COMPTROLLER, HEALTHY RELATIONSHIPS: A PLAN FOR IMPROVING HEALTH AND SEXUAL EDUCATION IN NEW YORK CITY'S SCHOOLS (Sept. 2017).

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<sup>35</sup> NYPD 2016-2017 SSA Reports by Precinct.

<sup>36</sup> NYPD 2016-2017 SSA Reports by Precinct.

<sup>37</sup> URBAN YOUTH COLLABORATIVE & CENTER FOR POPULAR DEMOCRACY, THE \$746 MILLION SCHOOL-TO-PRISON PIPELINE: THE INEFFECTIVE, COSTLY AND DISCRIMINATORY PROCESS OF CRIMINALIZING NEW YORK CITY STUDENTS (April 2017), [populardemocracy.org/STPP\\_Report](http://populardemocracy.org/STPP_Report).

<sup>38</sup> See NEW YORK POLICE DEPARTMENT, NYPD REPORTS: SCHOOL SAFETY DATA, 4TH QUARTER 2016 SSA REPORT BY SCHOOL (2016); NEW YORK POLICE DEPARTMENT, NYPD REPORTS: SCHOOL SAFETY DATA, 3RD QUARTER 2016 SSA REPORT BY SCHOOL (2016); NEW YORK POLICE DEPARTMENT, NYPD REPORTS: SCHOOL SAFETY DATA, 2ND QUARTER 2017 SSA REPORT BY SCHOOL (2017); NEW YORK POLICE DEPARTMENT, NYPD REPORTS: SCHOOL SAFETY DATA, 1ST QUARTER 2017 SSA REPORT BY SCHOOL (2017), all available at [http://www.nyc.gov/html/nypd/html/analysis\\_and\\_planning/reports.shtml](http://www.nyc.gov/html/nypd/html/analysis_and_planning/reports.shtml).

<sup>39</sup> See below section, "Effect of Policing and Criminalization on School Safety."

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<sup>42</sup> NEW YORK CITY DEPARTMENT OF INVESTIGATION OFFICE OF THE INSPECTOR GENERAL FOR THE NYPD, AN ANALYSIS OF QUALITY-OF-LIFE SUMMONSES, QUALITY-OF-LIFE MISDEMEANOR ARRESTS, AND FELONY CRIME IN NEW YORK CITY, 2010-2015 (5), available at <http://www1.nyc.gov/assets/oignypd/downloads/pdf/Quality-of-Life-Report-2010-2015.pdf>

<sup>43</sup> Jason P. Nance, Dismantling the School-to-Prison Pipeline, ARIZONA STATE LAW JOURNAL 48 (2016); *citing*, ADVANCEMENT PROJECT & HARVARD UNIV., OPPORTUNITIES SUSPENDED: THE DEVASTATING CONSEQUENCES OF ZERO TOLERANCE AND SCHOOL DISCIPLINE (2000), available at <https://www.civilrightsproject.ucla.edu/research/k-12-education/school-discipline/opportunities-suspended-the-devastating-consequences-of-zero-tolerance-and-school-discipline-policies/crp-opportunities-suspended-zero-tolerance-2000.pdf> (explaining that strict security measures "produce a perception of safety, [but] there is little or no evidence that they create safer learning environments or change disruptive behaviors"); John Blosnich & Robert Bossarte, *Low-Level Violence in Schools: Is There an Association Between School Safety Measures and Peer Victimization?*, 81 J. SCH. HEALTH 107, 107 (2011) (finding that school security measures did not reduce violent behaviors related to bullying).

<sup>44</sup> Jason P. Nance, Dismantling the School-to-Prison Pipeline, ARIZONA STATE LAW JOURNAL 48 (2016); *citing* ADVANCEMENT PROJECT & HARVARD UNIV., OPPORTUNITIES SUSPENDED: THE DEVASTATING CONSEQUENCES OF ZERO TOLERANCE AND SCHOOL DISCIPLINE (stating that after four years of implementation, schools that used zero tolerance policies were less safe than those that did not use them). See also NATIONAL ASSOCIATION OF SCHOOL PSYCHOLOGISTS, RESEARCH ON SCHOOL SECURITY: THE IMPACT OF SECURITY MEASURES ON STUDENTS (2013) *citing*, Nickerson & Marten, School Violence: Associations with Control, Security/Enforcement, Educational/Therapeutic Approaches, and Demographic Factors, SCHOOL PSYCHOLOGY REVIEW, 37 (2008) 228-243; Mayer & Leaone, A Structural Analysis of School Violence and Disruption: Implications for Creating Safer Schools, EDUCATION AND TREATMENT OF CHILDREN, 22 (1999) 333-56.

<sup>45</sup> Abigail Hankin et al., *Impacts of Metal Detector Use in Schools: Insights from 15 Years of Research*, 81 J. SCH. HEALTH 100, 105 (2011).

<sup>46</sup> Matthew T. Theriot, School Resource Officers and the Criminalization of Student Behavior, 37 J. CRIM. JUST. Q. 280, 285 (2009); see also Jason P. Nance, Students, Police, and the School-to-Prison Pipeline.

## ABOUT THE AUTHORS

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**The Urban Youth Collaborative** is led by young people and brings together New York City students to fight for real education reform that puts students first. Demanding a high-quality education for all students, our young people struggle for social, economic, and racial justice in our schools and communities. Our organizational members include Make the Road New York, Sistas and Brothas United, and Future of Tomorrow.

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**TESTIMONY OF JOHANNA MILLER<sup>1</sup>  
ON BEHALF OF THE NEW YORK CIVIL LIBERTIES UNION**

**Before**

**THE NEW YORK CITY COUNCIL'S COMMITTEE ON PUBLIC SAFETY**

**On**

**THE NEW YORK POLICE DEPARTMENT SCHOOL SAFETY DIVISION'S ROLE  
AND EFFORTS TO IMPROVE SCHOOL CLIMATE**

**November 21, 2017**

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<sup>1</sup> Research and drafting assistance from Stefanie Coyle

The New York Civil Liberties Union (“NYCLU”) respectfully submits the following testimony on the New York Police Department (“NYPD”) School Safety Division’s role and efforts to improve school climate. We would like to thank the Committee on Public Safety for giving the NYCLU the opportunity to provide testimony today on this important topic.

## **I. INTRODUCTION**

The NYCLU, the state affiliate of the American Civil Liberties Union, is a not-for-profit, non-partisan organization with nine offices across New York state and more than 210,000 members and supporters. The NYCLU’s mission is to defend and promote the fundamental principles, rights, and constitutional values embodied in the Bill of Rights of the U.S. Constitution and the Constitution of the State of New York. Protecting and expanding students’ rights is a core component of our mission, and through our Youth and Students’ Rights program the NYCLU advocates for positive school climate and equitable access to quality education for all students.

As a founding member of the Student Safety Coalition, the NYCLU partnered with students, parents, and advocates across the City to urge the Council to enact the Student Safety Act—a first-of-its-kind reporting law on student safety and discipline in schools. The Student Safety Act has given the public a rare view into schools’ inner workings, revealing a disciplinary system that continues to be deeply biased against Black and Latino students and students with disabilities. These students are suspended and arrested at alarmingly high rates relative to their enrollment, and are suspended more often, for longer periods of time, and for more subjective infractions than their peers, issues that the NYCLU has been tirelessly advocating to end.<sup>2</sup> We serve on the Mayor’s Leadership Team on School Climate and Discipline and we work regularly with individual educators and young people, including more than 100 members of our Teen Activist Project. Our work to reform school discipline and restrict the role of the criminal justice system in schools affords us a unique perspective on the criminalization of student behaviors and the role of the NYPD School Safety Agents (“SSO”).

The NYCLU appreciates Council Member Gibson’s efforts to contribute to the conversation regarding the role of SSOs in schools. We hope this oversight hearing will help the NYPD identify ways to clarify the responsibilities of police in schools and recognize the important part that its officers can play in improving school climate.

## **II. THE EVOLUTION OF NYPD SCHOOL SAFETY IN NYC SCHOOLS**

In 1998, then-mayor of New York City Rudy Giuliani led a campaign to transfer responsibility for school safety away from the Board of Education to the New York Police Department. Skeptical parents and educators were promised that the school police force would not be increased (from fewer than 2000 officers at the time) and that the officers would not have the authority to make arrests. Despite evidence that showed school crime was on the decrease, Giuliani’s plan came to fruition. His promises, however, lasted only as long as his administration:

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<sup>2</sup> NYCLU, Student Safety Act Reporting on Suspensions 2016-2017, <https://www.nyclu.org/en/student-safety-act-data>.

today more than 5,000 NYPD officers roam the hallways of New York City's schools, issuing criminal penalties, using force and restraints, and arresting children as young as seven years old.<sup>3</sup> In fact, SSOs outnumber guidance counselors and social workers in Department of Education (“DOE”) schools by more than 1,000.<sup>4</sup>

Importing police into public schools was a natural extension of both Mayors Giuliani and Bloomberg’s investment in “broken windows” policing. Broken windows is a discredited law enforcement strategy that focuses police resources on minor offenses in the hopes of preventing serious offenses. Tragically, New York City’s experiment with this tactic is a failed one— funneling hundreds of thousands of predominately Black and Latino New Yorkers into the criminal justice system and resulting in no serious safety gains.<sup>5</sup> Indeed, since the city abandoned its systemic overuse of Stop and Frisk (a major tactic of broken windows), crime rates have continued to fall.<sup>6</sup>

NYPD officers in DOE schools perform duties that include metal detector screening of students, interrogations and searches, and enforcement of routine school discipline. Yet, the City lacks transparent policies that make it clear which matters should be addressed by police (such as situations where there is an immediate risk of serious physical injury) and which should be addressed by educators. This lack of clarity leads to demonstrable harm by disrupting the educational environment and introducing young people into the criminal justice system at ever-younger ages. Also generally lacking is an effective mechanism for students, parents or educators to hold school safety officers accountable for their actions.

There is a vast body of research demonstrating the clear and significant harms of police acting as school disciplinarians.<sup>7</sup> Students who are arrested in school have higher rates of dropping out, and they face a host of collateral consequences from involvement with the criminal justice system including barriers to higher education, housing, and employment. It is up to the NYPD and DOE to clarify and minimize the role of SSOs in order to end the school to prison pipeline in New York City.

### III. THE NEED FOR CLEAR ROLES, OVERSIGHT, AND ACCOUNTABILITY

Today, policing in schools regularly involves enforcing low-level and non-criminal violations of school policies with little oversight or accountability. This is particularly true of the

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<sup>3</sup> See NYCLU, *Criminalizing the Classroom*, 2007, available at <https://www.nyclu.org/en/publications/report-criminalizing-classroom-2007>.

<sup>4</sup> There are currently 4,177 guidance counselors and social workers in NYC DOE schools. New York City DOE, Report on Guidance Counselors Pursuant to Local Law 56 of 2014, February 15, 2017, available at <http://schools.nyc.gov/NR/rdonlyres/4C83BFEB-35F5-4263-B614-84D61A8149A4/0/GuidanceCounselorReportandSummary21517final.pdf>. There are approximately 5,200 school safety agents. <https://twitter.com/nypdschools?lang=en>.

<sup>5</sup> See NYCLU, *Beyond Deliberate Indifference: An NYPD for All New Yorkers*, 2013. pp. 1-14, available at [https://www.nyclu.org/sites/default/files/publications/nypd\\_report\\_final\\_0.pdf](https://www.nyclu.org/sites/default/files/publications/nypd_report_final_0.pdf).

<sup>6</sup> See NYCLU, *Stop and Frisk Data*, available at <https://www.nyclu.org/en/stop-and-frisk-data>.

<sup>7</sup> See, e.g., Council on State Governments Justice Center, *Breaking Schools Rules: A Statewide Study on How School Discipline Relates to Students' Success and Juvenile Justice Involvement*, 2011, available at <https://csgjusticecenter.org/youth/breaking-schools-rules-report/>.

NYPD officers who are not members of the School Safety Division, who are responsible for the greatest portion of arrests in schools. Many of these police interventions are for non-criminal disorderly conduct (which includes common student misbehavior), non-criminal possession of small amounts of marijuana, students fighting, and issues that are not related to school safety at all, such as the investigation of a crime that happened off campus.<sup>8</sup>

The NYCLU has represented many children in New York City and around the state who have been harmed by police practices in school. In 2015, we settled a lawsuit against the City of New York on behalf of seven middle and high school students who were wrongfully arrested and/or physically abused by police in their schools. In that case, *BH v. City of New York*, we represented kids who were arrested or subjected to physical force for writing on school desks, acting "boisterous" in the hallway, possessing a cell phone in school, and talking back to adults, among other minor transgressions.<sup>9</sup> In a demonstration of just how difficult it is to achieve accountability for school safety officers, that case took six years to litigate and resulted in not one school safety officer being disciplined.

The structure also creates and perpetuates a lack of accountability. Principals have no authority over school safety; indeed, the NYCLU has represented students who were arrested over the objections of educators. School safety officers in New York City are accountable only to the NYPD but, unlike all other NYPD officers, are not subject to oversight by the Civilian Complaint Review Board.<sup>10</sup> The Department of Education will not accept or act on complaints of officer misconduct, even regarding officers who work full time in schools. The only way for students, parents, or educators to file a complaint against a school safety officer is by contacting the NYPD Internal Affairs Bureau (IAB), which is not independent, has no specialized knowledge of school safety or the education system, and is staffed entirely by police officers.

In order to return the balance of power in school discipline matters to educators, SSOs should be strictly limited to addressing only serious safety concerns and they must be required to work in consultation with school officials.

The City must update its 20-year-old The Memorandum of Understanding ("MOU") between the DOE and NYPD to address excessive policing in schools and lack of accountability. The document needs to delineate clearly the roles of school staff, SSOs, and NYPD precinct officers when responding to incidents in the school—both minor and more serious.<sup>11</sup> Educators should be responsible for enforcing all other matters including violations of school rules, as defined in the Citywide Standards of Discipline and Intervention, the Discipline Code. Law

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<sup>8</sup> See NYCLU, *Student Safety Act Data, 2011-2017*, available at <https://www.nyclu.org/en/student-safety-act-data>.

<sup>9</sup> *BH v. City of New York*, amended complaint, E.D.N.Y., Index No. CV 10-0210 (2010) (available at [https://www.nyclu.org/sites/default/files/Amended\\_Complaint.pdf](https://www.nyclu.org/sites/default/files/Amended_Complaint.pdf)).

<sup>10</sup> New York City Council, *Oversight: School Safety*, Joint Hearing of the Committees on Public Safety and Education, October 10, 2007, pp. 90-91, available at <http://legistar.council.nyc.gov/View.ashx?M=M&ID=75528&GUID=627027FF-3798-4761-8703-F972A5C78F8B>. See also, Civilian Complaint Review Board FAQs, <https://www1.nyc.gov/site/ccrb/about/frequently-asked-questions-faq.page>.

<sup>11</sup> See *Maintaining the Momentum: A Plan for Safety and Fairness in Schools*, The Mayor's Leadership Team on School Climate and Discipline, July 2016, available at [http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT\\_Report\\_7-21-16.pdf](http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT_Report_7-21-16.pdf).

enforcement intervention should always be the last resort, not the default. It should incorporate the specific recommendations presented in Appendix 7 of the Mayor’s Leadership Team on School Climate and Discipline’s “Maintaining Momentum” report<sup>12</sup>, including the following:

*First*, the MOU should prohibit police intervention in instances of student misbehavior. Broken windows tactics have been discredited on the streets; there is no place for them in schools either. Where there is no immediate threat of serious physical injury, police should never get involved in disciplining students or maintaining classroom decorum. The DOE should adopt clear prohibitions on police intervening in issues such as dress code violations, tardiness and cutting class, insubordination, and non-serious fights.

*Second*, the MOU should eliminate the use of criminal summonses in school. A criminal court summons is an inappropriate response to school misconduct and enforcing these low-level crimes in schools does not make students safer. As with an arrest, a summons requires a young person to miss school in order to attend a court hearing; but, unlike an arrest, a summons can be issued for minor misbehavior such as talking back to a teacher, running in the hallway, or doodling on a desk. The consequences, however, are not trivial. Criminal court summonses can result in large fines and fees and even an arrest warrant if the young person misses their court date. In the 3<sup>rd</sup> quarter of 2017 (July 1, 2017 – September 30, 2017), the NYPD issued 85 summonses to students.<sup>13</sup>

*Third*, the MOU should prohibit the use of handcuffs on students unless there is a threat to physical safety. Handcuffs, zip ties, and other restraints should never be used on children, on students with disabilities (especially by untrained officers), or as a means of punishment or convenience. In 2016, 92% of arrests in schools involved the use of handcuffs.<sup>14</sup>

*Fourth*, the MOU should have provisions that ensure effective accountability and oversight procedures. Too often, school police are inadequately supervised, trained, and supported by both the school district and the police department. Educators, students and parents must have an effective and accessible path to submit a complaint about the conduct of an officer in school, and must be able to trust that the officer will be held accountable. Officers with serious substantiated complaints against them, especially for use of force or harassment or discrimination against students, should not be permitted to work in schools.

#### **IV. NYPD ACTIVITY DISPROPORTIONATELY AFFECTS BLACK AND LATINO STUDENTS**

The “grey area” where the NYPD operates in schools creates opportunities for discrimination. Young people of color in failing or struggling schools are more often criminalized for minor infractions; of the 100,000 students who walk through a metal detector each day on their way into school, more than 90% are young people of color. In highly

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<sup>12</sup> *Id.*

<sup>13</sup> NYPD School Safety Data, Third Quarter 2017, available at <https://www1.nyc.gov/site/nypd/stats/reports-analysis/school-safety.page>.

<sup>14</sup> See NYCLU, *Student Safety Act Data*, 2016, available at <https://www.nyclu.org/en/student-safety-act-data>.

successful schools and schools with disproportionately white student bodies, this type of activity by the police would not be tolerated. Yet this is the continual damage caused by the NYPD's strategies—a tale of two cities that affects even our youngest residents.

Black and Latino students are more likely to be subject to physical force, the use of handcuffs, and police intervention in mental health matters. In 2016, nearly 100% of NYC students handcuffed during a "child in crisis" situation—a child in need of emergency mental health support—were Black or Latino. Overall, in more than 90% of police-involved incidents in schools, the students were Black or Latino.<sup>15</sup> These same trends have continued in 2017. In the most recently released NYPD data for the 3<sup>rd</sup> quarter of 2017, 90% of the students in police-involved incidents were Black or Latino.<sup>16</sup> Further, 86% of the students on which the NYPD used restraints were Black or Latino students.<sup>17</sup> Finally, nearly 100% of students handcuffed during "child in crisis" situations were Black or Latino.<sup>18</sup>

The NYPD and DOE should study this data carefully to implement strategies to reduce racial disparities in arrest data including those from the Mayor's Leadership Team on School Climate and Discipline's "Safety with Dignity" report.<sup>19</sup> By revising the MOU to limit the role of police, the City can make it clear that all children deserve a second chance when they make a mistake, regardless of the color of their skin. In addition, the City must provide adequate funding for all school personnel to be thoroughly trained in recognizing and correcting implicit biases.

## V. NYPD ACTIVITY AND ITS IMPACT ON STUDENTS WITH DISABILITIES

Federal law protects students with disabilities from discrimination in school. Both the Americans with Disabilities Act and the Individuals with Disabilities Education Act include important procedural protections to keep students from being pushed out of mainstream classrooms, ensure they are receiving proper supports, prohibit the use of abusive restraints and seclusion, and guarantee timely evaluations of their needs. Yet, when it comes to the actions of police in schools, these protections are routinely disregarded.

Police in schools have no legal access to information about students' disabilities or health needs, as these records are protected by federal privacy law. Yet they can use physical force and restraints against these students, and can remove them from school without even consulting the principal. The NYPD refuses to maintain records on in-school arrests of students with disabilities (the DOE maintains no records of student arrests whatsoever), so the city has no clear picture of the impact of police on students with disabilities. Without greater school accountability for police activities, the true impact of school police on students with disabilities will continue to be hidden from view.

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<sup>15</sup> See, NYCLU, *Student Safety Act Fact Sheet 2015-2016*, available at <https://www.nyclu.org/en/student-safety-act-data>.

<sup>16</sup> NYPD School Safety Data, Third Quarter 2017, available at <https://www1.nyc.gov/site/nypd/stats/reports-analysis/school-safety.page>.

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

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

<sup>19</sup> Safety With Dignity, Complete Report by the Mayor's Leadership Team on School Climate and Discipline, p. 34-35, July 2015, available at <http://www1.nyc.gov/assets/sclt/downloads/pdf/safety-with-dignity-final-complete-report-723.pdf>.

## VI. METAL DETECTORS IN SCHOOLS

Metal detectors have been used in city schools since the late 1980's with the stated purpose of "maintain[ing] a safe and secure school environment and prevent[ing] weapons from being brought into the schools."<sup>20</sup> However, according to DOE data, a majority of the items seized after a student passes through a metal detector include cell phones, hairpins, cameras, and school supplies.<sup>21</sup> There is no criteria for determining if a metal detector is working to make kids safer, is contributing to a negative school climate, or even if it is functioning properly.

During the 2015-2016 school year, there were 88 scanning sites across the city.<sup>22</sup> However, there is no transparent criteria for the addition or removal of metal detectors from a school. The process involves an opaque "data review" conducted by the DOE's Office of Safety and Youth Development (OSYD) and the NYPD School Safety Division. However, "the final determination will be made by NYPD SSD."<sup>23</sup>

There is no indication of the type of data reviewed, any benchmarks, or important indicators that are considered. The DOE and NYPD should develop clear criteria for the data review that includes multiple years of data, the number of weapons found and confiscated, the number of scanning incidents that resulted in the issuance of summons, arrest or school discipline, and whether students are chronically late to class due to scanning delays.<sup>24</sup> The inquiry into the effects and effectiveness of a metal detector should be repeated throughout the school year and in real-time. Parents and the community must understand where and why metal detectors are added or removed.

## VII. ALTERNATIVES TO POLICE ACTION

Restorative justice techniques that equip educators with the tools to avoid overreliance on police are critical to improving school climate. The most recent Student Safety Act data shows that discipline disparities against students of color and students with disabilities persist even when the overall number of suspensions has decreased.

Nationwide research on school suspensions clearly demonstrates that schools that implement positive discipline systems and provide cultural competence training to members of the school community, including SSOs, are able to reduce both their overall suspensions and

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<sup>20</sup> Scanning in NYCDOE Schools, [http://schools.nyc.gov/NR/rdonlyres/F176F019-7333-41D6-8458-16BD3B5FA22F/0/ScanningProtocolsinNYCDOESchools\\_20160721.pdf](http://schools.nyc.gov/NR/rdonlyres/F176F019-7333-41D6-8458-16BD3B5FA22F/0/ScanningProtocolsinNYCDOESchools_20160721.pdf); Chancellor's Regulation A-432, Search and Seizure, available at <http://schools.nyc.gov/NR/rdonlyres/FE6896D5-CE74-43BB-B988-7836924166B2/0/A432.pdf>.

<sup>21</sup> NYCLU Report, A,B,C,D, STPP: How School Discipline Feeds the School-to-Prison Pipeline, Oct. 2014, page 32-33, [http://www.nyclu.org/files/publications/nyclu\\_STPP\\_1021\\_FINAL.pdf](http://www.nyclu.org/files/publications/nyclu_STPP_1021_FINAL.pdf) (last visited Nov. 16, 2017).

<sup>22</sup> Scanning in NYCDOE Schools, [http://schools.nyc.gov/NR/rdonlyres/F176F019-7333-41D6-8458-16BD3B5FA22F/0/ScanningProtocolsinNYCDOESchools\\_20160721.pdf](http://schools.nyc.gov/NR/rdonlyres/F176F019-7333-41D6-8458-16BD3B5FA22F/0/ScanningProtocolsinNYCDOESchools_20160721.pdf).

<sup>23</sup> *Id.*

<sup>24</sup> Safety With Dignity, Complete Report by the Mayor's Leadership Team on School Climate and Discipline, p. 30, July 2015, available at <http://www1.nyc.gov/assets/sclt/downloads/pdf/safety-with-dignity-final-complete-report-723.pdf>.

their racial disparities.<sup>25</sup> Punitive exclusionary school discipline policies are not the way to correct normative adolescent and youth behavior that disrupts the classroom. Study after study has shown that educating and counseling students when they break school rules is a more effective and longer-lasting way to improve behavior.<sup>26</sup> Furthermore, there are numerous positive alternatives that are proven to work to curb the exclusion of students from school and significantly help to improve school climate, many of which are already in use quite effectively in New York City. In fact, in the 2013-2014 school year, suspensions dropped 21 percent at schools that received training in restorative justice practices.<sup>27</sup>

## VIII. RECOMMENDATIONS

The NYCLU has the following recommendations to improve school climate and better outline the role of NYPD School Safety Agents:

1. Update the MOU to be consistent with the following guidelines:
  - a. Prohibit police intervention in instances of student misbehavior.
  - b. Eliminate the use of criminal summonses in school.
  - c. Prohibit the use of handcuffs on students unless there is a threat to physical safety.
  - d. Ensure effective accountability and oversight procedures, including pathways for reporting unacceptable officer conduct.
2. Review arrest data to identify trends and take steps to reduce disproportionality against students of color.
3. Increase accountability for police regarding students with disabilities through better data transparency.
4. Create transparent criteria for the introduction and removal of metal detectors in schools.
5. Increase the use of restorative justice practices.
6. Increase training for SSOs in schools—including Respect For All, Collaborative Problem Solving, de-escalation, restorative justice approaches, cultural competency, conflict resolution, implicit bias, and trauma.

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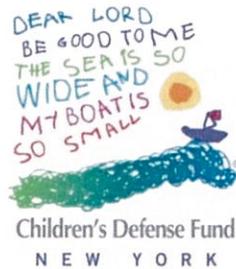
<sup>25</sup> Dan Losen & Tia Elena Martinez, *Out of School & Off Track: The Overuse of Suspensions in American Middle and High Schools* 21, The Center for Civil Rights Remedies, Apr. 8, 2013, available at [http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/out-of-school-and-off-track-the-overuse-of-suspensions-in-american-middle-and-high-schools/OutOfSchool-OffTrack\\_UCLA\\_4-8.pdf](http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/out-of-school-and-off-track-the-overuse-of-suspensions-in-american-middle-and-high-schools/OutOfSchool-OffTrack_UCLA_4-8.pdf) (last visited Nov. 16, 2017).

<sup>26</sup> See, e.g., Johanna Miller, *Education Interrupted*, New York Civil Liberties Union, Jan. 2011, available at [https://www.nyclu.org/sites/default/files/publications/Suspension\\_Report\\_FINAL\\_noSpreads.pdf](https://www.nyclu.org/sites/default/files/publications/Suspension_Report_FINAL_noSpreads.pdf) (last visited Nov. 16, 2017); Tony Fabelo et al., *Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement*, Council of State Governments, Jul. 2011, available at [https://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking\\_Schools\\_Rules\\_Report\\_Final.pdf](https://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking_Schools_Rules_Report_Final.pdf) (last visited Nov. 16, 2017); Losen, supra note 1.

<sup>27</sup> Safety With Dignity, Complete Report by the Mayor's Leadership Team on School Climate and Discipline, p. 13-14, July 2015, available at <http://www1.nyc.gov/assets/sclt/downloads/pdf/safety-with-dignity-final-complete-report-723.pdf>.

## **IX. CONCLUSION**

We thank the New York City Council's Committee on Public Safety for considering this testimony. Matters of school climate are fundamental to the notion of a quality, safe, and supportive education and NYPD officers in schools bear responsibility for contributing positively to each school's climate.



## Testimony for the New York City Council Committee on Public Safety Oversight - NYPD's School Safety's Role and Efforts to Improve School Climate

November 21, 2017

Good afternoon. My name is Charlotte Pope and I am the Youth Justice Policy Associate with the Children's Defense Fund–New York (CDF-NY). The Children's Defense Fund's (CDF) Leave No Child Behind® mission is to ensure every child a healthy start, a head start, a fair start, a safe start and a moral start in life, and successful passage to adulthood with the help of caring families and communities. Through CDF's Cradle to Prison Pipeline® Campaign—a national initiative to stop the funneling of children down life paths that often lead to arrest, conviction and incarceration—CDF-NY works to replace punitive school discipline and safety policies in New York City schools with social and emotional supports that encourage a positive school climate.

Thank you to Chair Gibson, and to the members and staff of the City Council Committee on Public Safety for this opportunity to testify before the oversight hearing on "NYPD's School Safety's Role and Efforts to Improve School Climate".

### Overview

At the root of CDF-NY's advocacy is the understanding that criminal justice responses to student behavior in school fall short in preventing conflict and harm from happening, disrupt the schooling process and students' educational trajectories, and do not provide the structure, support, or quality of relationships that influence students' feelings of safety.<sup>1</sup> CDF-NY further understands that students who experience measures like arrests and summonses in school are more likely to also experience grade retention, reduced educational achievement, weakened social bonds and negative attitudes toward school, and end up missing or leaving school altogether.<sup>2</sup> In our testimony today we urge the city to shift policy and resources toward positive approaches and more systemic, high quality alternatives with an intentional focus on early intervention and culture change:

- **Enhance alternatives to law enforcement responses to student behavior.** The City, Department of Education (DOE), and NYPD must adopt graduated responses to student behavior, and reduce the disparate impact of current school safety practices.
- **Invest in affirming resources and supports.** Funding for prevention and intervention strategies must be continued and expanded with the ultimate goal of citywide restorative justice implementation and an increase in the number of full-time guidance counselors and social workers.

### Enhance Alternatives to Law Enforcement Responses to Student Behavior

#### ***The Student Safety Act***

We appreciate the continued commitment of the Public Safety Committee to matters of school and student safety and especially the effort to bring greater transparency through the Student Safety Act.<sup>3</sup> On

<sup>1</sup> Justice Policy Institute. (2011). Education Under Arrests: The Case Against Police in Schools. Washington, DC: Author. Retrieved from [http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest\\_fullreport.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest_fullreport.pdf).

<sup>2</sup> Armour, M. (2016). Restorative Practices: Righting the Wrongs of Exclusionary School Discipline. *University of Richmond Law Review*, 50(3):999.

<sup>3</sup> The Student Safety Act requires that the NYPD publicly issue quarterly reports on arrests, summonses, and other police-involved incidents in New York City schools. Reports are published here: <http://www1.nyc.gov/site/nypd/stats/reports-analysis/school-safety.page>.

August 1, 2017, the City announced the 2016-2017 school year to be the “Safest School Year on Record” and upheld the announcement by emphasizing a reduction in the number of recorded “major crimes”, arrests and summonses, and city schools cited on New York State’s “persistently dangerous” list.<sup>4</sup> While we are encouraged by these reductions, CDF-NY understands that measures of school safety must include all the ways students are or aren’t made to feel welcome and secure in schools, especially as the Student Safety Act data illustrates the stark and continuing racial disparities in the use of interventions like arrests, summonses, and restraints. In the 2016-2017 school year (from July 1, 2016 to June 30, 2017) there were 9,655 total school-based incidents reported by the NYPD and black students in particular were grossly overrepresented across all incident categories:

	<i>Arrested</i> (1,106)	<i>Summons</i> (805)	<i>Juvenile Reports</i> (960)	<i>Child in Crisis</i> (2,702)	<i>Restraints</i> (1,689)	<i>DOE</i> <i>Population</i>
Black Students	60.0%	51.7%	49.4%	49.6%	60.8%	26.5%
Latino Students	32.4%	36.9%	39.4%	39.6%	32.4%	40.4%
White Students	4.1%	5.7%	6.1%	5.1%	4.0%	14.9%

Of all incidents with listed charges, 83% of arrests, summonses, and juvenile reports were for misdemeanors or violations.<sup>5</sup> The most common summons charges were “possession of marijuana” (31.3%) and “disorderly conduct” (29.4%). Summonses for disorderly conduct are especially concerning as the category includes a range of behavior subjectively determined to be disruptive, and research tells us that a school’s regular contact with law enforcement leads school officials to redefine student behaviors as criminal justice issues rather than as social or emotional matters.<sup>6</sup> These incidents could be handled in any number of ways besides issuing criminal court summonses that require students to miss school, especially considering that contact with court increases the chances a high school student will leave school<sup>7</sup> or otherwise experience educational instability.<sup>8</sup>

Started in September of 2015 and expanded in the spring of 2017, 71 schools have now been testing an approach that allows School Safety Agents the option to refer students to school administrators as an alternative to a summons for low level possession of marijuana and disorderly conduct. While we support the goal of reducing potential student contact with court, this tool, referred to as the warning card program, must be available to all schools and must not be subject to individual Student Safety Agent discretion. With our Dignity in Schools Campaign-New York (DSC-NY) partners we are calling on the city to end the use of summonses in school and rely instead on meaningful school-based accountability processes.

Of particular relevance to the Public Safety Committee, the Student Safety Act indicates that the majority (63 percent) of arrests, summonses, and juvenile reports that happen in schools are made by NYPD Patrol Officers—outside of the NYPD’s School Safety Division:<sup>9</sup>

	<i>Arrests</i>	<i>Summonses</i>	<i>Juvenile Reports</i>	<i>Restraints</i>
Patrol	62.9%	72.9%	54.3%	60.0%
School Safety Agent	13.7%	1.4%	40.8%	24.5%
Uniformed Task Force	3.9%	25.5%	2.2%	4.9%

While the Student Safety Act’s illustration of school-reliance on patrol officers is alarming, an important finding is that most schools in New York City handle behaviors without resorting to police intervention, instead it is a small number of school campuses that are in need of alternatives. As the New York City

<sup>4</sup> New York City Office of the Mayor. (2017, August 1). Transcript: Mayor de Blasio, Commissioner O’Neill and Chancellor Fariña Announce Safest School Year on Record. Retrieved from <http://www1.nyc.gov/office-of-the-mayor/news/531-17/transcript-mayor-de-blasio-commissioner-o-neill-chancellor-fari-a-safest-school-year>.

<sup>5</sup> There were 18 juvenile reports without charges listed and 177 juvenile reports with “Unk” listed. With those missing reports included the percent of misdemeanors or violations becomes to 78%.

<sup>6</sup> Nance, J.P. (2016). Students, Police, and the School-To-Prison Pipeline. *Washington University Law Review*, 93(4): 919-987.

<sup>7</sup> Sweeten, G. (2006). Who Will Graduate? Disruption of Highs School Education by Arrest and Court Involvement. *Justice Quarterly*, 23 (4): 462-480.

<sup>8</sup> Kirk, D.S., and Sampson, R.J. (2012). Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood. *Sociology of Education*, 88(1):36-62. Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4192649/>.

<sup>9</sup> Other listed commands include the Detective Bureau, Housing, Transit, and the Organized Crime Control Bureau.

School-Justice Partnership Task Force reported in 2013, this data “echoes findings from other jurisdictions indicating that suspension and school arrest patterns are less a function of student misbehavior than a function of the adult response. Given the same behavior, some choose to utilize guidance and positive discipline options such as peer mediation; others utilize more punitive alternatives.”<sup>10</sup>

### **Mayor’s Leadership Team**

In July of 2016, the Mayor’s Leadership Team on School Climate and Discipline, of which CDF-NY was a part, released their first of two reports, including the recommendation that the Memorandum of Understanding (MOU) between the NYPD and DOE be revised to decriminalize student behavior by clearly delineating the roles of school administrators and the NYPD, specifying behaviors that will not result in student arrest or receipt of a summons, and creating an arrest diversion program. As stated in the Mayor’s Leadership Team report, the Memorandum of Understanding, as is, “fails to clearly delineate the role of educators in disciplining students for non-criminal behavior”.<sup>11</sup> With the school safety working group, CDF-NY worked to codify a ladder of referral within school administration to govern the initial response to harmful student behavior and it is imperative that any updated MOU be released alongside efforts to build school-level capacity to support its meaningful implementation.

The recommendations of the school safety working group are supported by changes implemented in places such as Los Angeles, Broward County, Florida, and Clayton County, Georgia. In Clayton, the county created a Cooperative Agreement among schools, the justice community, and members of the community to develop a series of responses to “misdemeanor and delinquent acts” that reduce involvement of justice officials in schools.<sup>12</sup> The implementation of the Cooperative Agreement has resulted in an 87 percent decrease in reported fighting and decreases in referrals to the justice system for fighting and disruption,<sup>13</sup> and also serves as an example for reducing racial disparities.<sup>14</sup> As the presence of school police creates the opportunity for an increased application of the law directly to students and school situations without the filter of school administrators or policies, we ultimately seek a graduated response that decriminalizes student code of conduct violations, differentiates between disciplinary issues and threat of imminent danger or behavior that poses a serious threat to safety, and includes specific language that promotes utilizing the discipline process first and pursuing arrest as a last resort.

### **Disparate Impact**

While the Student Safety Act’s suspension reports disaggregate the impact of suspensions on some population subgroups such as students with disabilities and students in temporary housing, the police-intervention reports are more limited. However, we know from research in other jurisdictions<sup>15</sup> as well as national reporting that students with disabilities experience a disproportionate push into the justice system due to the disparate impact of discretionary arrests in schools.<sup>16</sup> Based on data from the US Department of Education, Office for Civil Rights, in the 2013-2014 school year students with disabilities constituted

<sup>10</sup> New York City School Justice Partnership Task Force. (2013). Keeping Kids in School and Out of Court: Report and Recommendations. Retrieved from <https://www.nycourts.gov/IP/justiceforchildren/PDF/NYC-School-JusticeTaskForceReportAndRecommendations.pdf>.

<sup>11</sup> Mayors Leadership Team on School Climate and Discipline. (2016). Maintaining the Momentum: A Plan for Safety and Fairness In Schools. Retrieved from [http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT\\_Report\\_7-21-16.pdf](http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT_Report_7-21-16.pdf).

<sup>12</sup> Justice Policy Institute. (2011). Education Under Arrest: The Case Against Police in Schools. Washington, D.C.: Author. Retrieved from [http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest\\_fullreport.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest_fullreport.pdf).

<sup>13</sup> *Ibid.*

<sup>14</sup> Heather Cobb, “Separate and Unequal: The Disparate Impact of School-Based Referrals to Juvenile Court,” 44 Harv. C.R.-C.L. L. Rev. 581, 592 (2009) (citing Clayton County Reduces School-Based Referrals of African-American Youth by 46%, JDAI News (Annie E. Casey Found./Juvenile Det. Alternatives Initiative, Wash., D.C.), Jul. 2006, at 7; M. Lynn Sherrod, Bryan Huff & Steven Teske, Childish Behavior; Criminal Behavior, Huntsville Times (Ala.), June 1, 2008, at A23; and Judge Steven Teske, Presentation to Juvenile Detention Alternatives Initiative, Annie E. Casey Foundation: Using Collaborative Strategies to Reduce Disproportionate Minority Contact, A Case Study in School Referrals & Reducing the Schoolhouse to Jailhouse Pipeline Effect (Sept. 2008), at 11).

<sup>15</sup> A 2015 report from the ACLU of California, for instance, found that students with disabilities are three times as likely as students without disabilities to be arrested. See [https://www.aclunc.org/sites/default/files/20161019-the\\_right\\_to\\_remain\\_a\\_student-aclu\\_california\\_0.pdf](https://www.aclunc.org/sites/default/files/20161019-the_right_to_remain_a_student-aclu_california_0.pdf).

<sup>16</sup> Merkwae, A. (2015). Schooling the Police: Race, Disability, and the Conduct of School Resource Officers. *Michigan Journal of Race and Law*, 21(1). Retrieved from <http://repository.law.umich.edu/cgi/viewcontent.cgi?article=1053&context=mjrl>.

24% of all school-related arrests but made up only 12% of the enrolled student population.<sup>17</sup> Further, Black students with disabilities constituted 9% of all school-related arrests but made up only 2% of the enrolled student population.<sup>18</sup> Nationwide, students of color are more likely to be identified as having a disability, and they are also more likely to be enrolled in schools with a high proportion of students receiving free or reduced-price lunch,<sup>19</sup> suggesting that many students of color are especially exposed to harsh responses based on their race, their status as students with disabilities, and their schools' unmet resource needs.<sup>20</sup>

Though local reporting is limited, research on LGBTQ student safety is accumulating—particularly as it relates to the impact of school security and safety officers on LGBTQ students.<sup>21</sup> In one nationally representative study, non-heterosexual youth were more likely than heterosexual youth to indicate that they had been stopped by police, arrested before the age of 18, expelled from school, and have a juvenile conviction.<sup>22</sup> LGBTQ youth of color report increased surveillance and policing in schools, and incidents of harsh discipline and biased application of policies in schools, and these same youth are overrepresented in the justice system.<sup>23</sup> GLSEN's 2012-2013 National School Climate Survey, including 7,898 students from 2,770 unique school districts revealed that:<sup>24</sup>

- Fourteen percent of all survey respondents said that the attitudes of school security officers toward them were hostile.
- Larger percentages of transgender and gender non-conforming respondents (20%) and transgender non-conforming respondents of color (28%) described the attitude of security toward them as "hostile."
- Nearly 15% of transgender and gender non-conforming respondents with security and/or police in their schools reported that they were verbally assaulted by those security personnel.

In one NYC study, LGBTQ youth of color, and gender nonconforming girls in particular, reported lower levels of "feeling safe" with school security. The researchers point out that in their study that school safety worked to produce a sense of "relative comfort" for some gender conforming, heterosexual girls but a sense of vulnerability for both LGBTQ and gender nonconforming girls of color.<sup>25</sup> Policies that mandate or encourage direct police or criminal justice action, like the use of criminal court summonses for instances of "disorderly conduct", directly push students into the pipeline and offer no real solutions. While we have been advocating for graduated approaches to discipline in schools, often the mere presence of police in schools leads to the escalation of behavior and referrals to the justice system.<sup>26</sup>

<sup>17</sup> In 2013-2014 there were 49,917,157 students enrolled in school, and 6,109,314 students served under IDEA. There were 60,170 arrests total, with 14,685 being of those students served under IDEA. See <https://ocrdata.ed.gov/SpecialReports#>.

<sup>18</sup> In 2013-2014 there were 5,147 school-level arrests of black students served under IDEA, out of 60,170 total arrests, while there were a total of 1,133,038 black students served under IDEA in total. See <https://ocrdata.ed.gov/SpecialReports#>.

<sup>19</sup> Orfield, G., and Lee, C. (2005). Why Segregation Matters: Poverty and Educational Inequality. Civil Rights Project. Retrieved from <https://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/why-segregation-matters-poverty-and-educational-inequality/orfield-why-segregation-matters-2005.pdf>.

<sup>20</sup> Nelson, L., Leung, V., and Cobb, J. (2016). The Right to Remain a Student: How California School Policies Fail to Protect and Serve. ACLU of California. Retrieved from [https://www.aclunc.org/sites/default/files/20161019-the\\_right\\_to\\_remain\\_a\\_student-aclu\\_california\\_0.pdf](https://www.aclunc.org/sites/default/files/20161019-the_right_to_remain_a_student-aclu_california_0.pdf).

<sup>21</sup> Lambda Legal. (2015). Protected and Served? School Security, Policing and Discipline. Retrieved from <https://www.lambdalegal.org/protected-and-served/schools>.

<sup>22</sup> Himmelstein, K. E., & Brückner, H. (2011). Criminal justice and school sanctions against nonheterosexual youth: A national longitudinal study. *Pediatrics*, 127(1), 49–57.

<sup>23</sup> Snapp, S.D., and Russell, S.T. (2016). Discipline Disparities for LGBTQ Youth: Challenges that Perpetuate Disparities and Strategies to Overcome Them. in Eds. R.J. Skiba, K. Mediratta, and M.K. Rausch *Inequality in School Discipline: Research and Practice to Reduce Disparities*. New York, NY: Palgrave Macmillan.

<sup>24</sup> GLSEN. (2016). Educational Exclusion: Drop Out, Push Out, and the School-to-Prison Pipeline among LGBTQ Youth. New York, NY: Author. Retrieved from [https://www.glsen.org/sites/default/files/Educational%20Exclusion\\_Report\\_6-28-16\\_v4\\_WEB\\_READY\\_PDF.pdf](https://www.glsen.org/sites/default/files/Educational%20Exclusion_Report_6-28-16_v4_WEB_READY_PDF.pdf).

<sup>25</sup> Chmielewski, J.F., Belmonte, K.M., Stoudt, B.G., and Fine, M. (2016). Intersectional Inquiries with LGBTQ and Gender Nonconforming Youth of Color: Participatory Research on Discipline Disparities at the Race/Sexuality/Gender Nexus. P.171 in Eds. R.J. Skiba, K. Mediratta, and M.K. Rausch *Inequality in School Discipline: Research and Practice to Reduce Disparities*. New York, NY: Palgrave Macmillan.

<sup>26</sup> Justice Policy Institute. (2011). *Op. Cit.*

### **Invest in Affirming Resources and Supports**

Policies that focus on repairing the harm, establishing accountability, and developing a strong school community have been found to prevent future conflict without removing students from their educational opportunities.<sup>27</sup> In 2015, the New York City Council invested in this approach by allocating \$2.4 million to the implementation of a restorative justice program to “change the culture” of a network of schools. This groundbreaking investment worked to inspire new resources in the Mayor’s Preliminary FY2017 Executive Budget, and now, as was announced during the October 30, 2017 Committee on Education oversight hearing, the Department of Education will be expanding their District 18 restorative justice pilot program to three additional districts.<sup>28</sup>

Trained school staff such as community intervention workers, peacebuilders, behavior interventionists, transformative or restorative justice coordinators, counselors, and other support staff, can and do prevent and address safety concerns, harm and conflicts.<sup>29</sup> Studies have established that exclusionary safety methods cannot be correlated with any certainty to overall school safety or improved student behavior, and instead preserve a climate of distrust.<sup>30</sup> When schools instead approach safety through responsive, re-integrative, and restorative processes, they are more effective at maintaining safe and collaborative communities.<sup>31</sup> Educators have long recognized that creating a truly safe environment depends on creating a positive school climate based on strong expectations, respect, and open communication among members of the school community.<sup>32</sup>

Nationally, as well as internationally, there is now considerable evidence that restorative approaches can result in reduced referrals to law enforcement, improved academic achievement and other beneficial results.<sup>33</sup> This research exists alongside studies showing that students who are removed from the learning environment for even a few days are more likely to be pushed out of school and become involved with the justice system.<sup>34</sup> Other school districts have shown us that youth who have engaged in harm but participate in restorative justice programs are less likely to harm others in the future, and people who experience harm are more likely to report being satisfied with the outcome than people that went through the court process.<sup>35</sup> Restorative practices address and discuss the needs of all school community members, build healthy relationships between educators and students, reduce, prevent, and improve harmful behavior, repair harm when it does happen and restore positive relationships, and resolve conflict by holding people accountable.<sup>36</sup> By developing more balanced responses to student behavior, such as restorative justice, schools can promote stronger academic environments, which in turn improve school safety.<sup>37</sup>

<sup>27</sup> *Ibid.*

<sup>28</sup> See <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3167135&GUID=A8BB2684-268C-4B3B-8B97-2FF748BC33AD&Options=&Search=>.

<sup>29</sup> Dignity in Schools Campaign. (2016). A Resource Guide on Counselors Not Cops. Retrieved from [http://www.dignityinschools.org/wp-content/uploads/2017/10/Resource\\_Guide-on-CNC-1.pdf](http://www.dignityinschools.org/wp-content/uploads/2017/10/Resource_Guide-on-CNC-1.pdf).

<sup>30</sup> Morrison, B.E., Blood, P., and Thorsborne, M. (2005). Practicing Restorative Justice in School Communities: The Challenge of Culture Change. *Public Organization Review: A Global Journal*, 5:335-357.

<sup>31</sup> Payne, A.A., Gottfredson, D.C., and Gottfredson, G.D. (2003). Schools as Communities: The Relationships Among Communal School Organization, Student Bonding, and School Disorder. *Criminology*, 41(3):749-778.

<sup>32</sup> Fein, R. (2004). Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates. Washington, DC: United States Secret Service and United States Department of Education. Retrieved from <https://www2.ed.gov/admins/lead/safety/threatassessmentguide.pdf>.

<sup>33</sup> Schiff, M. (2013). Dignity, Disparity and Resistance: Effective Restorative Justice Strategies to Plug the “School to Prison Pipeline”. Prepared for the Center for Civil Rights Remedies and the Research-to-Practice Collaborative, National Conference on Race and Gender Disparities in Discipline. Retrieved from <http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/state-reports/dignity-disparity-and-desistance-effective-restorative-justice-strategies-to-plug-the-201cschool-to-prison-pipeline/schiff-dignity-disparity-crr-conf-2013.pdf>.

<sup>34</sup> American Psychological Association Zero Tolerance Task Force. (2008). Are zero tolerance policies effective in the schools? An evidentiary review and recommendations. *American Psychologist*, 63, 852-862. Retrieved from <http://www.apa.org/pubs/info/reports/zero-tolerance.pdf>.

<sup>35</sup> Rodriguez, N. (2007) Restorative Justice at Work Examining the Impact of Restorative Justice Resolutions on Juvenile Recidivism. *Crime Delinquency*, 3: 355-374.

<sup>36</sup> McMorris, B.J., Beckman, K.J., Shea, G., Eggert, R.C. (2013). Applying Restorative Practices to Minneapolis Public Schools Students Recommended for Possible Expulsion: A Pilot Program Evaluation of the Family and Restorative Conference Program. Minneapolis, MN: School of Nursing and the Healthy Youth Development Prevention Research Center, University of Minnesota. Retrieved from [http://www.nursing.umn.edu/prod/groups/nurs/@pub/@nurs/documents/content/nurs\\_content\\_488712.pdf](http://www.nursing.umn.edu/prod/groups/nurs/@pub/@nurs/documents/content/nurs_content_488712.pdf).

<sup>37</sup> Stinchcomb, J.B., Bazemore, G., and Riestenberg, N. (2006). Beyond Zero Tolerance: Restoring Justice in Secondary Schools. *Youth Violence & Juvenile Justice*, 4:123-147.

### **Conclusion**

Whole-school restorative justice has the potential to make significant contributions in helping schools become safer places, reducing the reliance on exclusion, raising attendance and graduation rates, discouraging bullying behaviors, and preventing staff turnover and burnout.<sup>38</sup> It is our hope that the Council continue dialogue with the City on the value of sustainable investment in restorative justice in schools and ending the persistent disparities facing New York's students.

Thank you again for this opportunity to testify.

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<sup>38</sup> Advancement Project, American Federation of Teachers, National Education Association, National Opportunity to Learn Campaign. (2014). Restorative Practices: Fostering Healthy Relationships & Promoting Positive Discipline in Schools, A Guide for Educators. Washington, D.C.: Author. Retrieved from [http://b3cdn.net/advancement/5d8bec1cdf51cb38ec\\_60m6y18hu.pdf](http://b3cdn.net/advancement/5d8bec1cdf51cb38ec_60m6y18hu.pdf).



# Advocates for Children of New York

Protecting every child's right to learn

## Testimony to be delivered to the New York City Council Committee on Public Safety

**Re: Oversight - NYPD's School Safety's Role and Efforts to Improve School Climate.**

**November 21, 2017**

Board of Directors  
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Matthew Lenaghan

Good afternoon. My name is Dawn Yuster, and I am the Director of the School Justice Project at Advocates for Children of New York. For over 45 years, Advocates for Children ("AFC") has worked with the City's low-income families to ensure a high-quality education for students who face a variety of barriers to academic success. AFC's School Justice Project advocates for families with students facing emotional and behavioral challenges, school discipline, or court involvement to help these students get the support they need to succeed in school.

AFC serves hundreds of students each year who come in contact with law enforcement officials in their schools. Based on AFC's experiences and NYPD data, a substantial portion of what the NYPD does in schools falls outside of law enforcement. Of the reported 9,385 interventions by School Safety Agents and police officers involving children 21 and younger during the 2016-17 school year, 40.1% were so-called "mitigations," incidents where the NYPD became involved and then released the student to the school for discipline without taking further police action such as issuing a summons or making an arrest. Mostly students of color are the subjects of NYPD mitigations. About 95% of these interventions involved students of color. Moreover,



61% were Black students, even though Black students made up only about 27% of overall student enrollment.

Earlier this month, AFC released a data brief showing that 28.8% of all police interventions in schools for the 2016-2017 school year were what the NYPD calls “child in crisis” interventions—incidents where the police became involved when a student displayed signs of emotional distress and was then taken to a hospital for psychiatric evaluation. Nearly half of these interventions involved children 12 years old or younger. Here, too, we see startling over-representation of children of color. About 95% of “child in crisis” interventions by police in schools involved students of color; half were Black students—again, vastly disproportional to their 27% share of the student population in New York City. The scope of law enforcement’s role as *de facto* mental health responders in school is likely much larger. For example, this reported data fails to capture the students in emotional distress where the NYPD responded and then made an arrest or issued a summons or juvenile report.

It is not that White children never experience episodes of emotional distress or that they are never involved in disciplinary incidents requiring adult intervention. But their conspicuous scarcity in the NYPD’s reporting suggests that when these situations do involve White students, they are more often addressed by someone other than police.

This disparity matters. Contacts with law enforcement often have a negative impact on the individual children directly involved, as well as the overall school climate. In particular, students who are handcuffed during police interactions may suffer lasting effects from trauma. About 61.8% of children handcuffed during child in crisis



interventions were Black; and 100% of children 12 and under who were handcuffed during this type of intervention were students of color. Likewise, not one of the 73 students handcuffed during mitigations was White.

Law enforcement's mission creep into matters of mental health and school discipline is cause for serious concern. And that this over-reach and its impact primarily affect New York City's children of color is cause for immediate reform. Mental health professionals with appropriate training and skills are best positioned to assess and address the needs of students in emotional distress. School staff with appropriate training, resources, and support are best positioned to prevent and de-escalate incidents that might otherwise lead to police intervention. Law enforcement plays an important and irreplaceable role in keeping our city—including its children—safe. But in matters of school discipline and student mental health, New York City should unambiguously place responsibility in the hands of the professionals whose lives and careers are centered on supporting the growth and well-being of the young people in their charge.

Towards that end, we recommend that the City Council collaborate with the Administration to realign City resources to reflect the critical need to appropriately support students' social-emotional needs and address the striking racial disparities in police interventions. As an initial step, the City Council should work with the Mayor to fund a network of mental health services in 20 high need schools. This pilot program, recommended by the Mayor's Leadership Team on School Climate and Discipline, would include school partnerships with hospital-based mental health clinics and call-in centers to assist schools with students in crisis, mobile crisis response teams, school-based



behavioral health consultants who help students get direct mental health services, whole-school training in the evidence-based model of Collaborative Problem Solving, and program evaluation.

Second, the City Council should work with the Administration to invest in a long-term plan with necessary funding to develop and expand school-wide and district-wide positive, inclusive, and supportive approaches to address student behaviors and improve school climate. Research shows that positive, evidence-based alternatives to policing students in school—such as Restorative Practices, Collaborative Problem Solving, and Trauma-Informed Approaches—support schools in building the skills and capacities of students and adults to constructively resolve conflict and de-escalate behavior. These approaches emphasize the prevention of behavioral incidents from occurring and de-escalating behavioral incidents when they do occur.

Third, the City Council should urge the NYPD and Department of Education to enter an information-sharing agreement that comports with privacy laws in order for the NYPD to publicly report data disaggregated by whether the student is receiving special education services. Reporting disaggregated data by disability status is required by the Student Safety Act and will allow government agencies and the public to come together to make changes where they are desperately needed.

Thank you for the opportunity to speak today. We look forward to working with the City Council and the Administration as the budget process moves forward. I would be happy to answer any questions you may have.



# Data Brief

Advocates for Children of New York  
Protecting every child's right to learn

NOVEMBER 2017

## Children in Crisis

### POLICE RESPONSE TO STUDENTS IN EMOTIONAL DISTRESS

In 2016, pursuant to a 2015 amendment to a New York City law known as the Student Safety Act, the New York City Police Department (“NYPD”) began collecting and publishing quarterly data reports detailing more of its activities in New York City public schools. Along with information on arrests, summonses, and other police responses to students in school, the reporting includes data on so-called “child in crisis” interventions. *Child in Crisis Interventions, as defined by the NYPD, are incidents where a “student ... is displaying signs of emotional distress [and] must be removed to the hospital for psychological evaluation.”* Broadly speaking, these are instances where police become involved when a child is in an apparent state of mental health crisis. The data illuminates a significant, but oft-overlooked, function of police in schools as responders to incidents of mental health emergency.

This paper provides an overview of the “child in crisis” data reported from July 1, 2016 to June 30, 2017, examples of Advocates for Children of New York (“AFC”) cases

- » Between July 2016 and June 2017, the NYPD intervened in 2,702 incidents in NYC public schools involving students in emotional distress sent to the hospital for psychological evaluation (called “Child in Crisis Interventions”); about half (48%) were children ages 4-12.
- » 95% of these interventions involved students of color; about half (49.6%) were Black students, although they comprised only 26.5% of students enrolled.
- » In 330—or 12.2%—of these interventions, the NYPD used handcuffs<sup>1</sup> on these students, including children as young as 5 years old.
- » Black students involved in child in crisis interventions were handcuffed 15.2% of the time, substantially more often than other racial/ethnic groups; Black students accounted for 61.8% of students handcuffed during this type of intervention.
- » Children of color comprised 100% of the 84 students ages 12 and under handcuffed by the NYPD during this type of intervention.

KEY FINDINGS

<sup>1</sup>The term “handcuffs” used in this paper refers to either metal or Velcro handcuffs. The NYPD reports data on handcuffing students using the terms “mechanical restraints” or “Velcro restraints.”

illustrating how the current practices can fail to meet students' needs, and recommendations for reform, including AFC's call for the City to respond to students in emotional distress with clinically trained mental health professionals rather than law enforcement. These recommendations are aimed at addressing students' emotional needs and the striking racial disparities in how students in emotional distress are treated in school.

## FINDINGS

Responding to children in crisis represents a significant portion of the school interventions carried out by School Safety Agents and police officers. From July 2016 to June 2017—the period examined in this document—the NYPD reported 9,385 total interventions in schools involving individuals ages 21 and under. Of those, 2,702 (28.8%) were child in crisis interventions in which the student in emotional distress was taken to a hospital for psychological evaluation.

Notably, this figure under-represents the scope of NYPD contact with students in emotional distress. For example, this category does not include students in emotional crisis who were arrested, issued a summons, or issued a juvenile report instead of being sent to the hospital. Nor does it include instances where the NYPD responded to students in emotional distress who were not removed from school to the hospital or a police precinct (categorized as “Mitigated” by the NYPD).

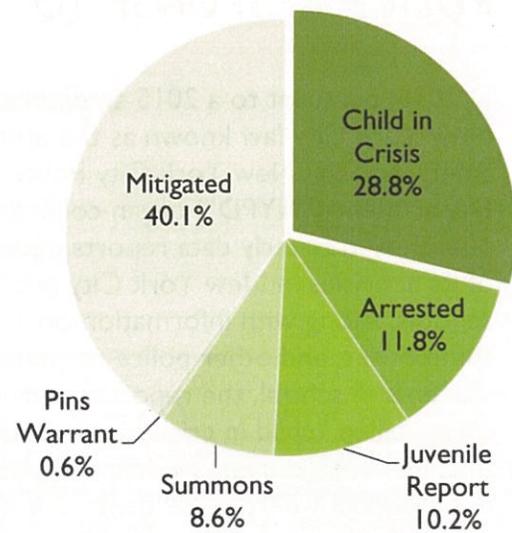
### Who are the “Children in Crisis”?

Between July 2016 and June 2017, the NYPD reported 2,702 “child in crisis” interventions involving students ages 21 or younger. The bullets below break down these interventions by age, race/ethnicity, and gender.

#### BY AGE:

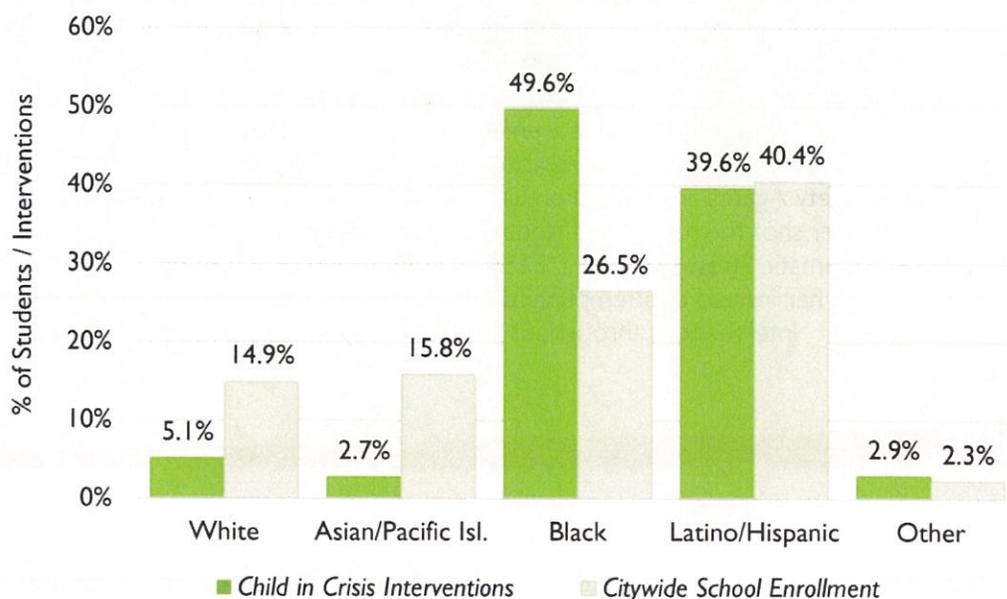
- » 1,295 of the 2,702 child in crisis interventions (about 48%) involved children ages 12 and younger, with some involving students as young as 4 years old.
- » 1,271 of the 2,702 child in crisis interventions (about 47%) involved students in the middle school/early high school years between the ages 12 and 16.

**FIGURE 1**  
Police interventions in schools by intervention type, July 2016–June 2017



**FIGURE 2**

2016–17 Child in crisis interventions, representation by race/ethnicity



### BY RACE/ETHNICITY:

- » 2,563 of the 2,702 child in crisis interventions (94.9%) involved students of color.<sup>2</sup>
- » Although Black students made up only about 26.5% of students in 2016-17, about half (49.6%) of child in crisis interventions involved Black students. White children comprised only 5.1% of students involved in child in crisis interventions and Asian/Pacific Islander children only 2.7%, both far lower than their proportions of the total student population (14.9% and 15.8%, respectively). Latino/a students were about proportionally represented: 39.6% child in crisis interventions vs. 40.4% of the student population.
- » NYPD data includes a category for “Arabic” as a race/ethnic group, reporting 28 child in crisis interventions involving students so identified.

### BY GENDER:

- » 1,540 of the 2,702 child in crisis interventions (57%) involved boys, and 1,162 out of 2,702 interventions (43%) involved girls. This imbalance is substantially less lopsided in this direction than most other types of NYPD interventions.<sup>3</sup>
- » About 94.5% of girls involved in child in crisis interventions are students of color, about equivalent to the percentage of boys involved in child in crisis interventions who are students of color (95.1%).

<sup>2</sup> While all categories of police intervention in schools involved a disproportionate number of students of color compared to the overall student population, none was as stark as child in crisis interventions.

<sup>3</sup> Compare, for example, to arrests: 74% vs. 26%. “PINS Warrant” is the only category of police intervention with more female students.

## WHEN A CHILD IN CRISIS IS NOT A “CHILD IN CRISIS”

The “child in crisis” designation is applied, in large part, based on how officers respond to a child’s actions when they get involved. These numbers do not reflect students in crisis who are arrested and brought to a precinct, instead of a hospital. For example, last school year, AFC represented a 15-year-old Latina student who became agitated and upset during lunch when another student, who had been bullying her for three months, threw food at her head. Even though school staff knew she had significant mental health challenges, a school administrator called law enforcement instead of deploying a trained mental health professional with the skills necessary to de-escalate the situation and help her calm down during the emotional crisis. School Safety Agents and NYPD precinct officers violently restrained the student with handcuffs. Then an NYPD officer shot the handcuffed student with a Taser gun. The student was subsequently diagnosed with Post-Traumatic Stress Disorder (“PTSD”) and transferred out of the school. Because the police arrested her instead of attempting to provide mental health treatment, this intervention, and any similar interventions throughout NYC schools, are not captured under the “child in crisis” category.

Recognizing that students with disabilities are more likely than their general education counterparts to be the subject of school disciplinary action, such as suspensions,<sup>4</sup> the Student Safety Act specifically provides that police interventions should be disaggregated by disability status “when practicable.”<sup>5</sup> However, the City does not currently make this information available for a number of reasons. For example, the NYPD does not seek information relevant to disability status from the DOE; nor does it as a policy ask students to disclose their status. Likewise, while the law requires school-level reporting, the NYPD currently reports interventions by building, rather than by school. Since buildings can contain multiple schools, this coding limits the City’s ability to match data to specific schools. The City should explore inter-agency options that enable reporting on NYPD interventions by disability status and by school, while strictly preserving student confidentiality.

### Use of Handcuffs

Between July 2016 and June 2017, the NYPD reported using handcuffs on children in crisis as follows:<sup>6</sup>

- » Overall, 330 of the 2,702 child in crisis interventions involved the use of handcuffs (12.2%).

<sup>4</sup> Dan Losen et al., “Are We Closing the School Discipline Gap?” (The Center for Civil Rights Remedies, February 2015), [https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/are-we-closing-the-school-discipline-gap/AreWeClosingTheSchoolDisciplineGap\\_FINAL221.pdf](https://www.civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/are-we-closing-the-school-discipline-gap/AreWeClosingTheSchoolDisciplineGap_FINAL221.pdf); Katherine Reynolds Lewis, “Why Schools Over-Discipline Children With Disabilities,” *The Atlantic*, July 24, 2015, <https://www.theatlantic.com/education/archive/2015/07/school-discipline-children-disabilities/399563/>.

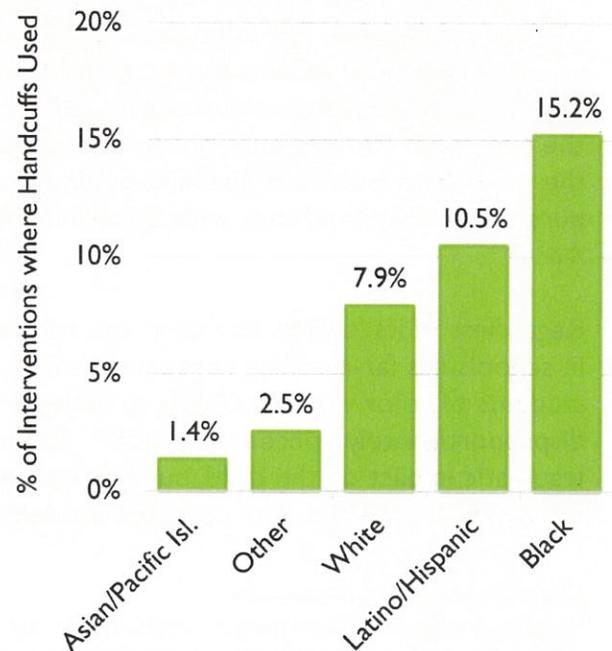
<sup>5</sup> Vanessa Gibson and Corey Johnson, “A Local Law to Amend the Administrative Code of the City of New York, in Relation to Reports on School Discipline and Police Department Activity in Schools,” Pub. L. No. Int 0730-2015A (2015), <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2253272&GUID=9BACC627-DB3A-455C-861E-9CE4C35AFAAC&Options=Advanced&Search>.

<sup>6</sup>The Student Safety Act defines restraints as “any device or material attached or adjacent to the body that restricts freedom of movement or normal access to any portion of the body and that the individual cannot easily remove, including handcuffs and nylon/Velcro restraining devices.” “Student Safety Act,” Pub. L. No. 93, 8–1100 N.Y.C. Administrative Code (2015).

- » The percentage of students handcuffed during child in crisis interventions was highest in the middle and high school years—ranging from 15% to 20%, depending on age.
- » 84 of the 330 child in crisis interventions involving the use of handcuffs were students aged 12 or younger (about 25.5%). This included children as young as 5 and 6 years old.
- » 100% of the 84 children ages 12 and under who were handcuffed were children of color. Black students accounted for about 65.5% of children 12 and younger who were handcuffed.
- » 204 of the 1,341 Black students involved in child in crisis interventions were handcuffed (about 15.2%), the highest rate of any race/ethnicity group. 112 of the 957 Latino/a students involved in child in crisis interventions were handcuffed (about 10.5%). Taken together, Black and Latino youth comprised 95.8% of all students handcuffed during child in crisis interventions.
- » 11 of the 139 White children (7.9%) and one of the 74 Asian/Pacific Islander children (1.4%) were handcuffed during child in crisis interventions.

While there is no federal law prohibiting the use of handcuffs or other restraints on students in school, New York State law explicitly prohibits schools' use of restraints for the purpose of preventing or discouraging specific behavior,<sup>7</sup> restricting their use to emergency situations.<sup>8</sup> Emergency situations, however, is broadly defined, including instances where there is no physical threat of harm to people, but rather potential harm to school property or when a student's behavior is interfering with the "orderly exercise" of the school.<sup>9</sup> These exceptions to the ban on restraints also apply in New York City.<sup>10</sup> Moreover, as members of law enforcement, rather than school staff, School Safety Agents and other members of the NYPD take the position that they are not subject to these restrictions.<sup>11</sup>

**FIGURE 3**  
Child in crisis interventions, July 2016–June 2017, use of handcuffs by race



<sup>7</sup> "Prohibition of Corporal Punishment and Aversive Interventions," 8 NYCRR § 19.5.

<sup>8</sup> Prohibition of corporal punishment and aversive interventions; "Program Standards for Behavioral Interventions," 8 NYCRR § 200.22(d).

<sup>9</sup> Prohibition of corporal punishment and aversive interventions.

<sup>10</sup> "Pupil Discipline and Behavior - Corporal Punishment," New York City Dep't of Educ. Chancellor's Regulations § A-420 (2014), <http://schools.nyc.gov/NR/rdonlyres/EDE42781-64EC-4875-A277-88038EB08277/0/A420.pdf>.

<sup>11</sup> "NYPD Patrol Guide, Procedure No. 221-13: Mentally Ill or Emotionally Disturbed Persons," June 1, 2016, [https://www1.nyc.gov/assets/ccrb/downloads/pdf/investigations\\_pdf/pg221-13-mentally-ill-emotionally-disturbed-persons.pdf](https://www1.nyc.gov/assets/ccrb/downloads/pdf/investigations_pdf/pg221-13-mentally-ill-emotionally-disturbed-persons.pdf).

## WHEN SCHOOL STAFF DON'T KNOW WHAT TO DO

Sometimes school staff are unaware of the school's crisis intervention plan or not adequately trained to de-escalate behavioral crises, so they contact the NYPD to respond. AFC represented an 8-year-old Latino student with a disability who was sitting at the lunchroom table with other students playfully poking each other with plastic sporks (combination of a spoon and a fork). The other students would not let him play so he used a spork to poke at one of them anyway. He became very agitated when school staff singled him out for poking another student and grabbed the spork out of his hand. Instead of contacting school staff trained in de-escalation techniques, staff contacted School Safety Agents, who further escalated the situation. NYPD officers were called in and handcuffed the boy for a couple of hours. They used so much force against the child that they ripped a hole in his pants. Even after the child's parents arrived and the little boy was clearly calm, the NYPD officers refused to take the handcuffs off the child to allow his parents to take him home, instead insisting that Emergency Medical Services transport the child to the hospital in handcuffs. At the hospital, doctors determined that the child did not pose a risk of harm to himself or others and released him shortly after administering a psychiatric examination.

Depending on the circumstances, handcuffing a student in emotional distress may violate the student's civil rights. For example, it could violate the student's constitutional right to be free from unreasonable seizure and excessive force; the right to a free appropriate public education, including positive behavioral supports and interventions that keep students with disabilities in the classroom learning pursuant to the Individuals with Disabilities Education Act (IDEA);<sup>12</sup> and the right to be free from disability-based discrimination and to receive accommodations pursuant to the Americans with Disabilities Act (ADA)<sup>13</sup> and Section 504 of the Rehabilitation Act.<sup>14,15</sup>

Regardless of its legality, however, this reliance on police to address students in emotional crisis in schools has far-reaching consequences for students, particularly students with disabilities and students of color who, according to national data and available local data, are often disproportionately policed in school.<sup>16</sup> The use of restraints on these children not only has a traumatic impact on the child, but also can exacerbate the behavior that led to the crisis, increasing the likelihood of repeated incidents, or even causing new problematic behaviors from

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<sup>12</sup> When a student with a disability exhibits behavior that impedes the student's learning or that of others, the IDEA requires the IEP Team "to consider the use of positive behavioral interventions and supports, and other strategies, to address the student's behavior." "Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements." Individuals with Disabilities Education Act," 20 U.S.C. § 1400.

<sup>13</sup> "Prohibition Against Discrimination and Other Generally Applicable Provisions," 42 U.S.C. § 12132.

<sup>14</sup> "Nondiscrimination under Federal Grants and Programs," 29 U.S.C. § 794.

<sup>15</sup> Nancy Lee Jones and Jody Feder, "The Use of Seclusion and Restraint in Public Schools: The Legal Issues" (Congressional Research Service, April 14, 2009), [http://www.spannj.org/information/CRS\\_Report\\_on\\_Legal\\_Issues\\_in\\_Seclusion\\_&\\_Restraints.pdf](http://www.spannj.org/information/CRS_Report_on_Legal_Issues_in_Seclusion_&_Restraints.pdf).

<sup>16</sup> Jason Nance, "Students, Police, and the School-To-Prison Pipeline," *Wash. L. Rev.* 93, no. 919 (2016); "Helping Justice Involved Individuals with Substance Use & Mental Health Disorders: Understanding How Laws, Regulations & Policies Affect Their Opportunities" (Legal Action Center, July 19, 2016), <http://lac.org/wp-content/uploads/2016/08/Synthesis-of-Federal-New-York-Barriers.pdf>.

the trauma of being restrained.<sup>17</sup> Psychological injury from restraints may range from short-term, such as fear of going to school, to long-term, such as Post-Traumatic Stress Disorder.<sup>18</sup> Physical injuries may range from bruising to bone fractures, and even death.<sup>19</sup> Handcuffing students can also have a traumatizing effect on classmates who observe the incident and may negatively affect school climate.<sup>20</sup>

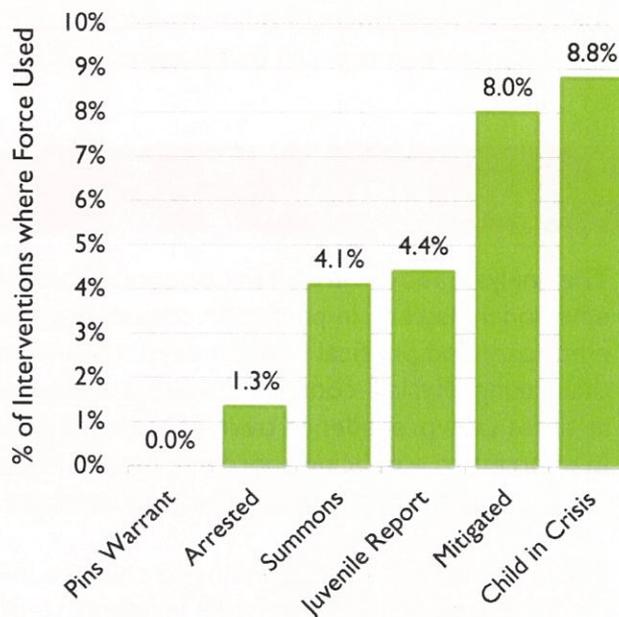
## Use of Force

While the NYPD reported use of force for some child in crisis interventions, the NYPD did not tabulate use of force and demographic characteristics (e.g. race/ethnicity, gender, age) in the same data sets, so it is not possible to analyze possible relationships between these variables.<sup>21</sup> The NYPD reported use of force as follows:

- » Officers used force during 32 of the 2,702 child in crisis interventions during this period (1.2%). This rate was about the same as for arrests (also 1.2%), and higher than for summonses (0.6%), juvenile reports (0.7%), and mitigations (0.2%).

**FIGURE 4**

Use of force during interventions in which student was handcuffed, June 2016–July 2017



<sup>17</sup> U.S. Dep't of Educ., Office for Civil Rights, Assistant Secretary of Educ., "Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities," December 28, 2016, <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-restraint-seclusion-ps.pdf>.

<sup>18</sup> National Disability Rights Network, "School Is Not Supposed to Hurt" (National Disability Rights Network, March 2012), [http://www.ndrn.org/images/Documents/Resources/Publications/Reports/School\\_is\\_Not\\_Supposed\\_to\\_Hurt\\_3\\_v7.pdf](http://www.ndrn.org/images/Documents/Resources/Publications/Reports/School_is_Not_Supposed_to_Hurt_3_v7.pdf); U.S. Government Accountability Office, "Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers," no. GAO-09-719T (May 19, 2009), <http://www.gao.gov/products/GAO-09-719T>; Statewide Youth Expert Witnesses, "Youth Position on Seclusion and Restraint," 2009, <http://stophurtingkids.com/wp-content/uploads/2013/05/Youth-Position-Statement-on-Restraint-and-Seclusion.pdf>; "CCBD's Position Summary on the Use of Physical Restraint Procedures in School Settings," *Behavioral Disorders* 34, no. 4 (2009): 223–34.

<sup>19</sup> "CCBD's Position Summary on the Use of Physical Restraint Procedures in School Settings"; National Disability Rights Network, "School Is Not Supposed to Hurt"; Office, "Seclusions and Restraints."

<sup>20</sup> *Id.* See also U.S. Dep't of Educ. Secretary of Educ., "Dear Colleague Letter on School Resource Officers ('SROs') in Schools," September 8, 2016, <https://www2.ed.gov/policy/gen/guid/school-discipline/files/ed-letter-on-sros-in-schools-sept-8-2016.pdf>; U.S. Dep't of Justice, Office of Community Oriented Policing Services, "Dear Colleague Letter on School Resource Officers ('SROs')," September 8, 2016, <https://www2.ed.gov/documents/press-releases/cops-sro-letter.pdf>.

<sup>21</sup> In 2016, the NYPD revised its guidelines related to use of force, including more detailed descriptions of different levels of force, but its public materials still do not include a basic description of "use of force." While the Patrol Guide does not define examples of types of "use of force," this term is generally understood to mean any application of physical or chemical control over someone, such as use of control holds or pepper spray. "NYPD Patrol Guide, Procedure No. 221-01: Force Guidelines," June 1, 2016, <http://www.nyc.gov/html/ccrb/downloads/pdf/pg221-01-force-guidelines.pdf>.

- » Almost all—29 out of 32—child in crisis interventions involving use of force also involved use of handcuffs. These 29 made up 8.8% of the 330 child in crisis interventions where the child was handcuffed.<sup>22</sup>

It is not surprising that child in crisis interventions involving use of force would be more likely to involve use of handcuffs. However, the data suggests that, for children in crisis who were handcuffed, officers used force more frequently than for all other types of interventions that involved handcuffs (e.g., arrests, summonses, etc.). Given the pattern of racial disproportionality in other areas (see “Use of Restraints” above) and the NYPD’s collection of demographic data, the Police Department should ensure that all data reporting on police actions in schools, including use of force, can be disaggregated by race/ethnicity.

## CONCLUSION

The analysis above raises serious concerns about NYPD interventions to address students with emotional distress, in particular considering the racial disparity, use of restraints, and apparent emotional and physical harm. Indeed, the use of handcuffs on children as young as five suggests that taking physical control of these situations, using prevailing law enforcement methods, may at times take precedence over concerns for the psychological welfare of the children involved. In contrast to a policing approach, mental health professionals with appropriate training and skills are best positioned to assess and address the needs of students in emotional distress.

While not limited to responding to children in emotional crisis, best practices exist for responding to school behavioral incidents to prevent behavioral crises and respond effectively when they occur.<sup>23</sup> There are numerous school-wide and district-wide evidence-based approaches to address student behaviors and improve school climate that can be used in combination with each other,<sup>24</sup> as well as with individualized positive behavioral supports and interventions for students with disabilities required under federal and state law.<sup>25</sup> These approaches emphasize preventing behavioral incidents from occurring and de-escalating

<sup>22</sup> The Student Safety Act defines the term “force” to include the use of (i) a firearm; (ii) physical force; (iii) a chemical agent; (iv) a baton; (v) mechanical restraints, except when used in the course of making an arrest; or (vi) a conducted energy device. However, the data suggests that the NYPD does not categorically consider use of handcuffs during child in crisis interventions as use of force.

<sup>23</sup> In 2012, the U.S. Department of Education (U.S. DOE) provided guidance to states and outlined best practices intended to limit the use of restraints. “Restraint and Seclusion: Resource Document” (U.S. Department of Education, May 2012), <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf>.

<sup>24</sup> Danya Contractor and Cheryl Staats, “Interventions to Address Racialized Discipline Disparities and School ‘Push Out,’” Policy Brief (Columbus, OH: Kirwan Institute for the Study of Race and Ethnicity, May 2014), <http://kirwaninstitute.osu.edu/wp-content/uploads/2014/05/ki-interventions.pdf>.

<sup>25</sup> The Individuals with Disabilities Education Act (“IDEA”), Section 504 of the Rehabilitation Act, and New York State Education law and implementing regulations contain specific provisions to ensure that students with disabilities are not removed from their classrooms because of their disabilities, but instead receive necessary behavioral supports. In particular, the laws’ requirements for Functional Behavioral Assessments and Behavior Intervention Plans to analyze and address the functions and causes of behavior, and for Manifestation Determination Reviews to prevent removals based on disability, provide safeguards against exclusion.

behavioral incidents when they do occur. Approaches used should take into account students' unique needs and consist of positive, preventative, restorative, and trauma-informed alternatives to exclusionary, punitive discipline, and should be implemented by trained school and mental health professionals.<sup>26</sup> Research demonstrates that student behavior and academic achievement tend to improve when students and staff feel safe, connected, fairly treated, and valued.<sup>27</sup>

Notably, a recent New York City regulation directs schools to establish de-escalation plans and provide training to staff to manage students in emotional crisis without involving law enforcement.<sup>28</sup> Chancellor's Regulation A-411 leaves calling 911 as a last resort for schools, limited to situations when the student's behavior poses an imminent and substantial risk of serious injury to the student or others and the situation cannot be addressed by school staff and support services.<sup>29</sup> The regulation requires each school to establish a crisis intervention plan that identifies school staff trained to de-escalate students in behavioral crisis. School Safety Agents, police officers, and other members of the NYPD are not members of the de-escalation teams implementing these crisis intervention plans. Despite the regulation, AFC and other education advocates have observed issues with creation and implementation of plans, including key information missing, such as protocols to de-escalate behavioral crises, and insufficiently trained staff.

While not exhaustive, we recommend that New York City undertake the following measures to ensure that students in emotional distress receive the appropriate care they need to succeed in school:

### *Fund and provide clinically trained mental health professionals to address students in emotional crisis.*

New York City should realign its resources to reflect the critical demand for clinically trained and experienced mental health professionals to support students in school.<sup>30</sup> As an initial

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<sup>26</sup> "Restraint and Seclusion: Resource Document"; U.S. Dep't of Educ. Office of Special Education Programs Technical Assistance Center on Positive Behavioral Interventions and Supports, "Positive Behavioral Interventions and Supports (PBIS) Implementation Blueprint: Part I—Foundations and Supporting Information," 2015, <https://www.pbis.org/blueprint/implementation-blueprint>; The Residential Child Care Project, "Therapeutic Crisis Intervention System for Schools" (Cornell University, 2012), [http://rccp.comell.edu/assets/TCIS\\_SYSTEM\\_BULLETIN.pdf](http://rccp.comell.edu/assets/TCIS_SYSTEM_BULLETIN.pdf); "Our Collaborative Problem Solving (CPS) Approach | Think:Kids – Collaborative Problem Solving," accessed October 25, 2017, <http://www.thinkkids.org/learn/our-collaborative-problem-solving-approach/>; Emily Morgan et al., "The School Discipline Consensus Report: Strategies from the Field to Keep Students Engaged in School and out of the Juvenile Justice System" (New York, NY: The Council of State Governments Justice Center, 2014), [https://csgjusticecenter.org/wp-content/uploads/2014/06/The\\_School\\_Discipline\\_Consensus\\_Report.pdf](https://csgjusticecenter.org/wp-content/uploads/2014/06/The_School_Discipline_Consensus_Report.pdf).

<sup>27</sup> Morgan et al., "The School Discipline Consensus Report: Strategies from the Field to Keep Students Engaged in School and out of the Juvenile Justice System."

<sup>28</sup> "Behavioral Crisis De-Escalation/Intervention and Contacting 911," New York City Dep't of Educ. Chancellor's Regulation § A-411 (2015), <http://schools.nyc.gov/NR/rdonlyres/5DA279FE-5664-4B3D-86CB-659EFFBA3D8D/0/A411Final52115.pdf>. The New York City Department of Education instituted Chancellor's Regulations A-411 as part of the settlement in T.H. et al. v. Fariña, et al. (13 Civ. 8777) (Dec. 15, 2014), a federal lawsuit filed by Legal Services of New York City filed on behalf of children and their guardians alleging that students were improperly removed by Emergency Medical Services (EMS) to psychiatric emergency rooms for behavior that should have been handled by their schools.

<sup>29</sup> Behavioral Crisis De-Escalation/Intervention and Contacting 911.

<sup>30</sup> Indeed, a recent report on school-based mental health care issued by the Manhattan Borough President indicates that the current patchwork of services in schools is insufficient to meet the mental health needs of students in New York City. Gale

important step towards increasing mental health supports for all high need schools, the City should implement the recommendation of the Mayor's Leadership Team on School Climate and Discipline to fund a pilot program that would create a network of mental health services to supplement existing hospital and social service supports for students and their families and school staff.<sup>31</sup> This pilot program would serve 20 schools in the South Bronx and Central Brooklyn that have high rates of emergency medical service calls, arrests, summonses, and suspensions. Further recommendations include school partnerships with hospital-based mental health clinics and call-in centers to assist schools with students in crisis, as well as mobile crisis response teams, school-based behavioral health consultants, whole-school training in the evidence-based model of Collaborative Problem Solving, and program evaluation.

### *Provide school staff with appropriate crisis de-escalation training and resources and monitor implementation.*

In order for schools to appropriately respond to students in emotional distress, school staff must receive appropriate de-escalation training and have effective crisis de-escalation plans in place. All staff should know the components of the school's crisis de-escalation plan, including: which school staff are trained in trauma-informed de-escalation techniques and should be contacted to de-escalate students in emotional distress, what is available in terms of in-school and community mental health resources, and when 911 should be contacted for emergency medical services. It is essential that the City monitor implementation of training and crisis de-escalation plans and hold people in the DOE and NYPD accountable to the plans.

### *Conduct individual behavioral assessments and provide individualized supports and interventions.*

All children whose behavior impedes their learning or the learning of others should receive appropriate educational assessment, including Functional Behavioral Assessments, to understand individualized behavioral needs, followed by Behavior Intervention Plans to identify and implement necessary support. These plans should include instruction in appropriate behavior and strategies to regulate emotions. When necessary, the plans should also include training for relevant school staff on positive behavior support and de-escalation strategies provided by a behavior specialist.

### *Fund the expansion of school-wide and district-wide evidence-based approaches to address student behaviors and improve school climate.*

Research shows that there are positive, evidence-based alternatives to policing students in school—including restorative practices, Collaborative Problem Solving, and trauma-informed

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A. Brewer, Manhattan Borough President, "Who's Caring: The State of School-Based Mental Health Care in NYC Schools," August 2017, <http://manhattanbp.nyc.gov/downloads/pdf/School%20Mental%20Health%20Report%20-%202017%20-%20Final.pdf>.

<sup>31</sup> The Mayor's Leadership Team on School Climate and Discipline, "Maintaining the Momentum: A Plan for Safety and Fairness In Schools, Phase Two Recommendations," July 2016, [http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT\\_Report\\_7-21-16.pdf](http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT_Report_7-21-16.pdf).

approaches—that support schools in building the skills and capacities of students and adults to constructively resolve conflict and de-escalate behavior. These approaches can be used in combination with each other, as well as with individualized positive behavioral supports and interventions for students with disabilities. It is critical that the approaches be implemented with fidelity by trained school and mental health professionals, along with regular data tracking, evaluation, and monitoring of effectiveness. The City should invest in a long-term plan with necessary funding to develop and expand such positive, inclusive, and supportive approaches.

### *Establish and maintain inter-agency information sharing.*

The NYPD and DOE should enter an information-sharing agreement that comports with privacy laws in order for the NYPD to publically report data disaggregated by whether the student is receiving special education services. Reporting this disaggregated data will bring the NYPD into compliance with the Student Safety Act. Moreover, it will allow government agencies and the public to come together to make changes where they are desperately needed. Additionally, aligning reporting systems could improve school-level reporting, increasing officials' ability to target remedial measures.<sup>32</sup>

### *Hold a City Council hearing on policing and mental health in schools.*

The City Council should hold a hearing on the use and impact of police interventions with students in emotional distress, including the impact, effectiveness, and outcomes of school-based mental health services such as those provided through ThriveNYC.

### *Revise the Memorandum of Understanding (MOU) between the NYPD and the DOE.*

New York City should revise policies and practices, including the MOU between the City, NYPD, and DOE, to clarify and significantly limit the role of law enforcement when students are in emotional crisis.

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<sup>32</sup> Aligning NYPD and DOE reporting systems to disaggregate data on students handcuffed in school would also help bring New York City into compliance with the U.S. Department of Education's mandate that all school districts report the number of times restraints are used on students with and without disabilities. Annie Waldman, "Los Angeles and New York Pin Down School Kids and Then..." ProPublica, December 2, 2014, <https://www.propublica.org/article/los-angeles-and-new-york-pin-down-school-kids-and-then-say-it-never-happene>.

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## ABOUT ADVOCATES FOR CHILDREN

For more than 45 years, Advocates for Children of New York has worked to ensure a high-quality education for New York students who face barriers to academic success, focusing on students from low-income backgrounds who are at greatest risk for failure or discrimination in school because of their poverty, disability, race, ethnicity, immigrant or English Language Learner status, sexual orientation, gender identity, homelessness, or involvement in the foster care or juvenile justice systems. AFC uses four integrated strategies: free advice and legal representation for families of students; free trainings and workshops for parents, communities, and educators and other professionals, to equip them to advocate on behalf of students; policy advocacy to effect change in the education system and improve education outcomes; and impact litigation to protect the right to quality education and compel needed reform.

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JUSTICE FROM COURTROOM TO COMMUNITY

**Written Comments of Youth Represent  
to Committee on Public Safety – Oversight - NYPD's School Safety's Role and Efforts to  
Improve School Climate – November 21, 2017  
Ashley C. Sawyer, Esq. – Staff Attorney**

Youth Represent is a law office that provides holistic, re-entry related legal representation for young people 16-24, sometimes younger, who have been affected by the criminal legal system.

Our holistic services include representing students who have been suspended from school, which is often the first step into the School-to-Prison Pipeline. Our representation is intended to ensure that young people are able to reclaim their dignity and live to their full potential.

For so many of my clients, their contact with the criminal legal system, and in some cases, their decision to drop out of school, begins with school based arrests. School Safety Agents are often the entry point into school pushout and into the criminal system. As an attorney providing support for youth in New York City schools, I have seen SSA's yell at, berate, and curse out students before 9 AM, just for not going through the morning metal detector routine correctly.

**For many students, SSAs represent the criminalization of their academic experience. The presence of school police increases the likelihood that a student will have a juvenile or criminal record, and increases the dropout rate.<sup>1</sup>**

I want to share the story of a client I worked with this month, I'll call her "Rita". Rita is a black, masculine presenting, queer, teenage girl who attends a New York City public school. Like many other youth of color, and particularly queer youth, her interactions with SSAs have been

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<sup>1</sup> See generally, Justice Policy Institute, *Education Under Arrest, The Case Against Police In Schools*, [http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest\\_executivesummary.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest_executivesummary.pdf)

tense, degrading, and sometimes violent. In a recent incident, Rita was grabbed by a male SSA, thrown to the cement ground, and pinned down by 5 different SSAs. The SSAs made no attempts to deescalate the situation, no attempts to talk rationally or kindly with Rita. They instead used physical brutality to subdue this 17-year-old girl. Rita is short in stature and could have easily been seriously injured by their behavior. I cannot imagine a scenario in which it would be appropriate to use this level of force on a teenage girl, particularly holding her down as five adults try to control her body.

**This deprivation of human dignity, this rash use of force, all stemmed from Rita using foul language and playing basketball in a neighborhood school. The deprivation of Rita's bodily autonomy is unacceptable and should be intolerable in any safe, supportive, school climate.** It is also emblematic of a larger problem with the presence of School Safety Agents. I've heard the expression in reference to school-based police, "when you are a hammer, everything looks like a nail." If there was an infraction, Rita's behavior could have easily been corrected by adult, civilian staff members, but because these staff members had the use of SSAs at their disposal, they immediately resorted to calling SSAs rather than looking for other solutions.

If we want to invest in the dignity and academic success of our students, we must invest in School Based Mental Health programs and divest from police or police staff. In a system where there are finite resources, restorative practices and School Based Mental Health should be prioritized over law enforcement. Yet, our current spending doesn't reflect that priority. In NYC, for schools with student populations of about 2,000, I have seen an average of 7 to 8 officers operating a metal detector and weapon detection system. This requires significant

resources to pay for SSA and school police salaries.<sup>2</sup> In fact, NYC has over 5,500 New York Police Department personnel in schools, compared to the only 2,800 full-time counselors.<sup>3</sup> Historically, the NYC Board of Education assigned 9 officers for two hours every morning, and has rearranged student's schedules just to accommodate time consuming metal detector screenings that SSAs conduct each morning.<sup>4</sup> **Police presence increases the likelihood that our youth will have contact with the juvenile or criminal systems, intimidates students, and increases racial disparities in the criminal legal system.**<sup>5</sup> School counselors, by contrast, have **the potential to heal, prevent and de-escalate school based violence.** If each school had several school psychologists, and quality therapists available, instead of several SSA's, it would actually present an opportunity to heal youth who have experienced trauma and likely have tangible, positive, and far reaching benefits on student's feelings of safety and student achievement. We often hear that quality interventions like restorative justice and mental health support are too expensive, but if we divest resources away from law enforcement our children can thrive.

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<sup>2</sup> [Nyc.gov/site/nypd/careers/civilians/school-safety-agents-benefits.page](https://nyc.gov/site/nypd/careers/civilians/school-safety-agents-benefits.page)

<sup>3</sup> Center for Popular Democracy and Urban Youth Collaborative, *The \$746 Million A Year School-To-Prison Pipeline: The Ineffective, Discriminatory, and Costly Process of Criminalizing New York City Students*, April 2017, [https://populardemocracy.org/sites/default/files/STPP\\_layout\\_web\\_final.pdf](https://populardemocracy.org/sites/default/files/STPP_layout_web_final.pdf).

<sup>4</sup> Mary W. Greer, *The Appropriate and Effective Use of Security Technologies in US Schools*, National Institute of Justice, Office of Justice Programs, 1999. Anecdotally, one high school in the Bronx uses eight each morning, when our lawyers are there providing workshops, we've witnessed officers yelling and cursing at students in a scene that closely mirrors a hostile airport security screening.

<sup>5</sup> Advancement Project, "School to Prison Pipeline" Infographic, accessed October 17, 2017, [http://b3cdn.net/advancement/0d4633c0e97bcf061f\\_q4m6igky2.pdf](http://b3cdn.net/advancement/0d4633c0e97bcf061f_q4m6igky2.pdf), "70% of students involved in school related arrest[s] are African American or Hispanic."

School-Based Mental Health services encompass a broad array of preventative interventions, which can include assessments, counseling, referrals to community programs, and special education services, where needed. The resources we often invest toward training School Safety Agents to respond to crises, including bullying or interpersonal conflict, would be better spent training educators and school professionals.<sup>6</sup> Student interventions should come from trained professionals, teachers (where appropriate), and school staff with a deep understanding of adolescent brain development and the needs of black, and Latinx youth, youth with special education needs, and LGBTQ youth in particular, because they make up a disproportionate percentage of the youth who are arrested or involved in school based discipline.

I recognize the fear that if schools do not utilize police, there will be violence that puts children at risk. But the evidence points to the opposite: police presence can have a harmful impact on students' perceptions of school safety, and they do not reduce the incidents of physical conflicts between students.<sup>7</sup> Study after study also show that the communities where metal detectors are present are often communities of color, which furthers a false narrative of youth of color, particularly black and Latinx youth, being inherently violent.<sup>8</sup>

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<sup>6</sup> Monique W. Morris, et. al, *Be Her Resource: A toolkit About School Resource Officers and Girls of Color*, Center on Poverty and Inequality Georgetown Law, <http://www.law.georgetown.edu/news/press-releases/upload/be-her-resource.pdf>, 2017. National Center for Mental Health and Juvenile Justice training kit for school police, <https://www.ncmhjj.com/wp-content/uploads/2016/09/AMHTSRO-FINAL.pdf>. Both of these reports outline ways to mitigate the harm caused by law enforcement interactions with students in schools, however resources and efforts are best spent investing in supporting social workers, therapist, teachers, and education professionals to do this work.

<sup>7</sup> Hankin, Hertz, and Simon, *Impact of Metal Detectors Use in Schools: Insights from 15 Years of Research*, JOURNAL OF SCHOOL HEALTH, 100-6, February 8, 2011.

<sup>8</sup> Melinda D. Anderson, *When Schools Feel like Prison*, THE ATLANTIC, September 12, 2016.

School climate can be enhanced by investing resources in doing what works, and what is backed by evidence; in particular School Based Mental Health services, Restorative Justice practices, and support for teachers and staff who will meet student needs in a culturally competent, developmentally appropriate, and gender-responsive manner. We should simultaneously divest from School Safety Agents, metal detectors, or other tools of criminalization.



Testimony on NYPD's School Safety's Role and Efforts to Improve School Climate  
Testimony for Public Hearing on Oversight:

Education Committee *on Public Safety*

New York City Council  
November 21, 2017

Khadija Hudson  
Community Organizer  
Girls for Gender Equity

Good Afternoon New York City Council Members my name is Khadija Hudson and I am a community organizer at Girls for Gender Equity. Girls for Gender Equity is an intergenerational organization committed to the advocacy and development of girls and women. Through education and organizing, GGE encourages communities to remove barriers and create opportunities for girls and women to live self-determined lives. As an organization, we are also active members in the Dignity in Schools Campaign.

Thank you city council members for convening this hearing on the NYPD's School Safety Agent's Role and Efforts to Improve School Climate in NYC schools. Girls for Gender Equity has been at the forefront of community-led initiatives working alongside young people to highlight racial and gender barriers and Improving school climate. Our collaboration with young people has indicated that the presence and role of NYPD's School Safety Officers in school foster an environment that makes them feel unsafe and criminalized.

In 2016, we conducted participatory action research with over 100 girls and transgender and gender nonconforming young people of color who attend New York City Public Schools. In this research, young people overwhelmingly expressed negative and oppressive experiences with NYPD School Safety Agents. A young person in our study stated: **"We have safety agents everywhere in the building, and it makes me feel like a prisoner"**. Other young people in our study have expressed similar sentiments. In New York City public schools there are over 5,200 NYPD School Safety Agents, but only 2,850 Social Workers and 1,193 Guidance Counselors in all New York City public school. The large presence of NYPD in New York City public schools are not an indicator of the safety. In our study, young people still experienced various forms of violence in their school despite the high numbers of School Safety Agents. This is because NYPD School Safety Agents do not actually create safer school environments.

Historically the presence of police, including school safety agents, in communities of color create more hostile environments. Research from The African American Policy Forum states that the presence of school safety agents in New York City has led to daily exchanges and interactions with law enforcement and greatly expanded the surveillance of youth of color and the normalization of prison culture in school settings (Morris, 2012). NYPD School Safety Agents recreate the harsh policing and surveillance practices that police officers do in communities of color, insides of schools.

In our report, *The School Girls Deserve: Youth-driven solutions for creating Safe, Holistic, and Affirming NYC public schools*, youth expressed a strong desire for a complete removal of all police from public schools. This recommendation is consistent with findings from other young people surveyed across NYC and in other states (Brathwaite & Hudson, 2017). Our research supports findings from other New York City advocates such as Dignity in Schools Campaign New York and the Urban Youth Collaborative, which recommend that school safety agents be removed from all NYC public schools, and funding for that program be redirected to counselors, social workers, and restorative justice programming.

NYPD School Safety agents are not beneficial to the learning or safety of young people in New York City Public Schools. Young people deserve to go to a school where they do not feel like criminals but rather feel safe and affirmed so that they may thrive. I encourage you to collaborate with young people to create the best learning environments for them that keeps them safe but does not criminalize them, and work to remove school safety agents from all NYC public schools. <sup>1</sup>

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<sup>1</sup> For more information, please check out our report *The School Girls Deserve: Youth Driven Solutions for Creating Safe, Holistic and Affirming New York City Public Schools*  
[http://www.ggenyc.org/wp-content/uploads/2017/11/GGE\\_school\\_girls\\_deserveDRAFT6FINALWEB.pdf](http://www.ggenyc.org/wp-content/uploads/2017/11/GGE_school_girls_deserveDRAFT6FINALWEB.pdf)



**Testimony on NYPD's School Safety's Role and Efforts to Improve School Climate  
Testimony for Public Hearing on Oversight:  
Education Committee**

New York City Council  
November 21, 2017

Hi my name is Christina and I am 17 years old. My pronouns are she,her,hers. I am a Sister in Strength youth organizer and Young Women's Advisory Council Representative at Girls for Gender Equity. Girls for Gender Equity encourages communities to remove barriers and create opportunities for girls and women of color to live self-determined lives.

One way we do this is through our School Girls Deserve Campaign, which highlights the problem of school push out and presents the vision of the school that we want. School pushout is is when a student is forced out of because of several reasons that are rooted in: racism, sexism, islamophobia, homophobia, and transphobia. The manifestations of School push out are dress code, metal detectors, and school curriculum. Most students that experience school pushout are Black and Latinx.

Here is my personal story: Every day I have to go through a metal detector in order to enter my school. There are times in which I have to make multiple trips through the metal detector because I have on "too much metal" like a simple bracelet or a necklace and it made me late to my class. According to a participatory action research project Girls for Gender Equity did on how girls and transgender youth of color experience school pushout, nearly half of girls of color had experienced going through metal detectors. Every once in awhile my school invites other police officers from surrounding precincts into the school to perform scanning. On one these days when I was on my way to school I was approached by a police officer and he asked me to take off my coat and put it in a bag and then he sent me to the lunch room. Then another officer told me to put my hands up so that she could scan me, then another officer told me to put my hands on a table and raise my foot so that she could check my feet. Do I look like I'm trying to hide

something in my feet? It's like their trying find an excuse to arrest me or persecute me. I believe in my own opinion that it is unfair because even if I didn't do anything, they are criminalizing me.

Kids come to school to learn, not to be scanned. Kids come to school to learn, to get their education. Kids want to be safe and not criminalized. Instead of policing us when conflict or fights happen, we should be able to have conversations without offending each other and ending on a good note. I want to eliminate metal detectors because they do more than good, you say you are protecting me, but you are pushing me out of school by making me into a criminal.

**Testimony on behalf of the Legislative Advocacy Clinic at New York Law School<sup>1</sup>**

**Regarding**

**The NYPD School Safety Division's Role and Efforts to Improve School Climate**

**Before**

**New York City Council Public Safety Committee**

**November 21, 2017**

**I. Introduction**

We respectfully submit the following testimony to the Council about the nationwide impact of the School to Prison Pipeline System and on the NYPD School Safety Division's role and efforts to improve school climate. As students in the Legislative Advocacy Clinic at New York Law School, we have researched the effects of police intervention on school discipline procedures and its detrimental effects on students. By placing the responsibility of discipline on school law enforcement, the City is criminalizing our youth rather than fostering their growth.

**II. Background**

Nationwide, we have a problem of students entering the juvenile and criminal justice systems due to unfair school disciplinary policies. The presence of police officers, invasive search protocols, and metal detectors in schools can make places of learning feel like prisons. These measures are often presented as the only way to protect our students. However, students all across the country are being arrested not for serious crimes but for incidents of standard teenage misbehavior. School discipline procedures for minor behavioral infractions too often

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<sup>1</sup> Written by New York Law School Students Akash Balaggan ('19), Gianne Falvo ('18), Danah Jones ('19), Natchaya 'May' Vutrapongvatana ('19).

result in suspension, expulsion, arrest, or incarceration of the students involved. Nationally, six percent of K-12 students received one or more out-of-school suspensions in the 2013-2014 school year; 18 percent were Black boys; 10 percent were Black girls; and just five and two percent were white boys and white girls, respectively. <sup>2</sup>

One of the main causes of this racial and gender disparity is the impact of the zero-tolerance disciplinary policies employed by the nation's schools. Students of color are suspended and arrested at a rate more than two times greater than their counterparts for the same offenses. Suspension, expulsion, and arrest are often the first steps in a chain of events that lead to academic disengagement and unnecessary involvement with the criminal justice system.

### **III. School Safety and Exclusionary Discipline in New York City Schools**

New York City Public Schools enroll roughly 1 million students during the academic year and Black students account for 27 percent of the school population. Black students receive the largest number of in-school suspensions, out of school suspensions, expulsions, and referrals to law enforcement than their counterparts of different racial and ethnic backgrounds, even though Latino students comprise the majority of the school population at 40 percent. <sup>3</sup>

During the 2013 - 2014 academic year the Department of Education reported over 53,000 suspensions, where insubordination and minor altercations (also known as horseplay) accounted for at least 12,000 of those suspensions. The most frequently suspended infractions are not considered serious enough to *require* a suspension within the Department of Education's

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<sup>2</sup> U.S. Department of Education Office for Civil Rights, 2013 - 2014 Civil Rights Data Collection First Look, available at, <https://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>

<sup>3</sup> U.S. Department of Education Office for Civil Rights Data Collection 2013, available at, <https://ocrdata.ed.gov/Page?t=d&eid=31194&syk=7&pid=736&Report=6>

discipline procedures, so these suspensions are largely discretionary.<sup>4</sup> According to disciplinary guidelines, at the conclusion of the 2015 - 2016 academic year more than 85 percent of suspensions and removal from instruction could have been dealt with in other ways that involved less missed class days.<sup>5</sup>

Students who find themselves at the hands of police officers are often left frustrated, humiliated, and ashamed. They can feel unsafe and unwelcome in their schools and in some cases, these students will drop out. Furthermore, students can end up with criminal records from these police interactions, which make it challenging or impossible for them to get a job, get into college, and get assistance from the government. Frequently suspended infractions can be redirected with other discipline approaches that do not require students to be excluded from instruction.

#### **IV. Alternatives to School Safety Agents**

Several school districts in the U.S. have demonstrated positive outcomes as a result of replacing zero-tolerance discipline policies with restorative justice policies. After eliminating zero-tolerance policies for petty acts and adopting restorative justice policies to maintain order, Miami-Dade County Public School District, the fourth largest school district in the U.S., and Broward County Public School District, the sixth largest school district in the U.S., have dramatically decreased arrests and suspensions.

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<sup>4</sup> NYCLU, Student Safety Act Reporting on Suspensions 2013 - 2014, *available at*, [https://www.nyclu.org/sites/default/files/ssa\\_suspension\\_factsheet\\_2013-2014\\_edit.pdf](https://www.nyclu.org/sites/default/files/ssa_suspension_factsheet_2013-2014_edit.pdf)

<sup>5</sup> NYCLU, Student Safety Act Reporting on Suspensions 2015-2016 School, *available at*, [https://www.nyclu.org/sites/default/files/SSA\\_Suspension\\_FactSheet\\_2015-2016.pdf](https://www.nyclu.org/sites/default/files/SSA_Suspension_FactSheet_2015-2016.pdf)

In 2009, Florida amended its zero-tolerance statute and gave school districts the option of replacing negative disciplinary policies with positive alternatives. As a result, Miami-Dade and Broward County adopted restorative justice disciplinary policies for minor acts of misconduct. Broward County created the Preventing Recidivism through Opportunities, Mentoring, Interventions, Supports, and Education Program (“PROMISE”). Instead of school suspensions or arrests for incidents such as disorderly conduct and petty theft, students are sent to a designated education center where they receive counseling, behavioral services, and the opportunity to make-up school work. Ninety percent of students who complete PROMISE do not reoffend.<sup>6</sup>

Miami-Dade implemented a behavior support system into its student code of conduct. This system uses data to identify students’ needs and monitors students’ progress. This system requires teachers and school officials to use restorative measures before referring students for arrest, suspension, or expulsion. In 2014, Miami-Dade also created “Success Centers.” Success Centers are establishments that suspended students are required to attend. In the Success Centers, students receive therapy and are also required to complete schoolwork. Since 2009, Miami-Dade reduced school related arrests by 69 percent. Since 2005, Miami-Dade decreased out of school suspensions by 44 percent. In the 2015 - 2016 school year, Miami-Dade recorded its highest student graduation rate at more than 80 percent.<sup>7</sup>

The success of restorative justice programs in Miami-Dade and Broward Counties demonstrates that school districts can successfully implement policies to eliminate the School-to-Prison Pipeline. Restorative justice policies can decrease arrest rates and increase graduation rates.

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<sup>6</sup> Harvard Law and Policy Review Dismantling the School to Prison Pipeline: South Florida’s Approach February 2, 2017, available at, <http://harvardlpr.com/2017/02/02/dismantling-the-school-to-prison-pipeline-south-floridas-approach/>

<sup>7</sup> *Id.*

## **V. Conclusion**

We recommend that the Council encourage the New York City Department of Education to design strategies that focus on the root of disciplinary problems and develop programs on restorative solutions. By ensuring that students' rights are protected, adults in the school building can build stronger relationships that keep everyone safer.

We should be moving toward the goal of a school system where police are not necessary, and the only way to get there is to reduce reliance on police and replace them with better discipline alternatives. Let us as New Yorkers take a step forward in the right direction and coordinate with local educational agencies to implement positive, preventative approaches to exclusionary discipline actions, promoting a positive school climate for all students and minimizing students' removal from instruction. Let us put an end to the criminalization of schools and let us give all of our students the opportunity to succeed. The New York City Council can encourage these changes through funding positive alternatives instead of increasing support for police reliance, and through exercising its oversight authority.

We thank the New York City Council's Committee on Public Safety for considering this testimony. New York City Department of Education has an obligation to contribute positively to the learning environment of each school, providing the students of New York a quality and supportive education. We offer the following recommendations to be considered as alternative steps the Council can take to protect the future of New York's children. We thank you for your consideration of our suggestions.

## Recommendations

We have the following recommendations to improve school climate and the role of New York Police Department School Safety Agents:

1. Provide comprehensive guidelines for School Safety Agent interactions with students through establishing limits on law enforcement activities in schools and promoting a Student Bill of Rights.
2. Limit police presence in public schools and empower educators and counselors to respond to disruption and misbehavior in a way that contributes to students' educational progress. The Council can promote this through its oversight and budget authority.
3. Coordinate with the DOE to implement positive, preventative approaches to exclusionary discipline actions and promote a positive school climate for all students and improve engagement for disconnected youth, minimizing student removal from instruction. The City Council can support this through providing funding support for alternatives and providing less funding support for police in schools.
4. Reduce the number of young people subjected to criminal justice penalties because of in-school misbehavior, by encouraging the DOE and NYPD to adopt an improved Memorandum of Understanding that limits the role of police in schools.

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Roberto Cabanias

Address: \_\_\_\_\_

I represent: Urban Youth Collaborative

Address: \_\_\_\_\_

**THE COUNCIL  
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Appearance Card

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I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
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Name: Ohgy Walker

Address: \_\_\_\_\_

I represent: Future of Tomorrow / Urban Youth Collaborative

Address: \_\_\_\_\_

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Name: Adriana Pimentel

Address: \_\_\_\_\_

I represent: Make the Road NY Urban Youth Collaborative

Address: \_\_\_\_\_

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Name: Keith Fuller

Address: \_\_\_\_\_

I represent: Urban Youth Collaborative

Address: \_\_\_\_\_

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Name: Jacky Badillo

Address: \_\_\_\_\_

I represent: Urban Youth Collaborative

Address: \_\_\_\_\_

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Name: Gianne Faino

Address: \_\_\_\_\_

I represent: NYCLU + New York Law School

Address: \_\_\_\_\_

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Date: 11/21/2017

(PLEASE PRINT)

Name: Brittany Brathwaite

Address: 155 Monmouth St. Brooklyn, NY 11216

I represent: Girls for Gender Equity

Address: 25 Chapel St. Brooklyn, NY 11216

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I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

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Date: 11-21-17

(PLEASE PRINT)

Name: Ashley C. Sawyer, Esq.

Address: 11 Park Place - 1512 NY, NY 10007

I represent: Youth Represent

Address: \_\_\_\_\_

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I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Charlotte Pope

Address: \_\_\_\_\_

I represent: Children's Defense Fund New York

Address: 15 Maiden Lane 10038

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in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Dawn Yuster

Address: \_\_\_\_\_

I represent: Advocates for Children of NY

Address: \_\_\_\_\_

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in favor  in opposition

Date: \_\_\_\_\_

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Name: Kate Terenzi

Address: \_\_\_\_\_

I represent: Center for Popular Democracy

Address: (with Urban Youth Collaborative)

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in favor  in opposition

Date: 11/21/2017

(PLEASE PRINT)

Name: Nelson Mar

Address: 349 East 149th St. Bx 10451

I represent: Bronx Legal Services

Address: 349 East 149th St. Bx 10451

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THE CITY OF NEW YORK**

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 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)  
Name: Khadija Hudson  
Address: 1990 Lexington Ave  
I represent: Girls For Gender Equity  
Address: \_\_\_\_\_

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 in favor  in opposition

Date: 11/21/2017

(PLEASE PRINT)  
Name: Meren Forkas  
Address: \_\_\_\_\_  
I represent: Brooklyn Defender Services  
Address: \_\_\_\_\_

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 in favor  in opposition

Date: 11/21/17

(PLEASE PRINT)  
Name: Nancy Ginsburg + Cara Chambers  
Address: 199 Water St  
I represent: Legal Aid Society  
Address: 199 Water St.

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in favor  in opposition

Date: 11/21/17

(PLEASE PRINT)

Name: Johanna Miller

Address: \_\_\_\_\_

I represent: NYCLU - New York Civil Liberties Union

Address: 125 Broad St. NY, NY 10004

**THE COUNCIL  
THE CITY OF NEW YORK**

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in favor  in opposition

Date: 11/21/17

(PLEASE PRINT)

Name: Lois Herrera

Address: 52 Chambers St., Rm 218

I represent: NYC DOE

Address: 52 Chambers St

**THE COUNCIL  
THE CITY OF NEW YORK**

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in favor  in opposition

Date: 11/21/17

(PLEASE PRINT)

Name: Mark Rampersad

Address: 52 Chambers Street

I represent: NYC Department of Education

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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in favor  in opposition

Date: 11/21/17

(PLEASE PRINT)

Name: Theron Pride

Address: Mayor's Office of Criminal Justice

I represent: Special Counsel on Justice Initiatives

Address: E Co-Chair for Mayor's Leadership

Team on School Climate

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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in favor  in opposition

Date: 11/21/17

(PLEASE PRINT)

Name: Assistant Chief Brian Conroy

Address: 1 Police Plaza

I represent: NYPD

Address: \_\_\_\_\_

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