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COMMENT

BALTIMORE CITY SCHOOLS NEED MANY THINGS – A PERSONAL POLICE FORCE IS NOT ONE OF THEM

By: Kelli L. Cover*

INTRODUCTION

“When children attend schools that place a greater value on discipline and security than on knowledge and intellectual development, they are attending prep schools for prison.”¹ This is one example through which Angela Davis explained the damaging impacts of systems that replicate the structures of prisons, particularly on poor communities of color.² Baltimore City schools have seen numerous recent incidents of school police officers using unwarranted force against children on school grounds. While disturbing videos of young children being treated violently in schools at the hands of police officers have been emerging nationwide, the presence of officers within the schools of Baltimore City is particularly unique because of the Baltimore City School District’s dedicated police force.³

In 2014, a Baltimore City School Police officer struck a 13-year-old female student over the head with her baton and pepper sprayed two additional female students at Vanguard Collegiate Middle School.⁴ The officer was eventually

* J.D. 2018, University of Baltimore School of Law. I would like to thank my faculty advisor, Gilda Daniels, for her guidance and support, as well as the entire *University of Baltimore Law Forum* staff for their hard work throughout this process. Finally, my extraordinary thanks go to the numerous people within the Baltimore community tirelessly advocating for institutional reform.

¹ Angela Y. Davis, *Are Prisons Obsolete?* 38-9 (Seven Stories Press ed., 2003).

² *Id.*

³ See *Deputy Who Tossed a S.C. High School Student Won’t Be Charged*, THE N.Y. TIMES (Sept. 2, 2016), <http://www.nytimes.com/2016/09/03/afternoonupdate/deputy-who-tossed-a-sc-high-school-student-wont-be-charged.html> (school resource officer recorded flipping a female student in her desk to the floor and dragging her for refusing to surrender her cell phone); see also Emma Brown, *Judge: Police can no longer pepper spray students for minor misbehavior at school*, THE WASH. POST (Oct. 1, 2015),

https://www.washingtonpost.com/news/education/wp/2015/10/01/judge-police-can-no-longer-pepper-spray-students-for-minor-misbehavior-at-school/?utm_term=.d5c5b81e9df4 (describing the routine use of pepper spray on students, including an officer spraying a pregnant 15-year-old student when she would not stop crying).

⁴ See Danielle Sweeney, *Amid debate over arming school police officers, one of them is indicted for assault and theft*, BALTIMORE BREW (Mar. 2, 2015) <https://www.baltimorebrew.com/2015/03/02/amid-debate-over-arming-school-police-officers-one-of-them-is-indicted-for-assault-and-theft/>; See also Evan Serpick,

charged with one count of first-degree assault, three counts of second-degree assault, and three counts of reckless endangerment. Ultimately, she pled guilty to three counts of second-degree assault.⁵ All three girls – ages 11, 13, and 14 – were handcuffed, arrested, and charged with assault.⁶ They were brought before a judge and expelled from school before the criminal charges were eventually dropped when video surfaced of the violent attack.⁷ Further, on March 1, 2016, a Baltimore school police officer slapped and kicked a 16-year-old teenager on the steps outside REACH Partnership School, a city high school, while another officer watched.⁸ In 2002, a Baltimore School Police Officer shot and killed a 14-year-old boy who was smoking and drinking behind a Northeast Baltimore elementary school.⁹

"As the only district in the state of Maryland that functions in this way, I believe now more than ever that there has to be a serious reassessment of the function and purpose of Baltimore city public schools operating as a police department," stated Senator Bill Ferguson, following the release of the Report of the Department of Justice's investigation of the Baltimore Police Department.¹⁰ It is necessary to evaluate the impact of the Baltimore City School Police Force and prioritize ensuring that schools are not criminalizing students and leading them into the school-to-prison pipeline. This comment proceeds in three parts. Part I addresses the history of school police officers and the battle for equitable school funding in Baltimore City. Part II examines several issues arising as a consequence of the Baltimore City School Police Force, including the inappropriate practices used by the force, the need for school funding, and the criminalization of youth and the particularly disparate impact this has on students of color, the LGBTQ community, and students with disabilities. Part III proposes that Maryland should eliminate the Baltimore

Statement on School Police, OPEN SOCIETY INSTITUTE-BALTIMORE (Mar. 2, 2016) <https://www.osibaltimore.org/2016/03/statement-on-school-police/>.

⁵ Sweeney, *supra* note 4; Serpick, *supra* note 4.

⁶ Jenny Egan, *Street policing doesn't belong in school*, THE BALT. SUN (Jan. 30, 2015) <http://www.baltimoresun.com/news/opinion/oped/bs-ed-school-police-20150201-story.html>.

⁷ *Id.*

⁸ Liz Bowie & Kevin Rector, *Criminal investigation launched after video shows school police officer slapping young man*, THE BALT. SUN (Mar. 3, 2016), <http://www.baltimoresun.com/news/maryland/education/blog/bs-md-ci-school-slapping-video-20160301-story.html>.

⁹ Del Quentin Wilber & Liz Bowie, *Officer pleaded guilty in '01 case*, THE BALT. SUN (Apr. 10, 2002), http://articles.baltimoresun.com/2002-04-10/news/0204100042_1_lynch-samuel-probation-before-judgment.

¹⁰ Erica L. Green, *Justice Department report cites lapse in school police accountability*, THE BALT. SUN (Aug. 11, 2016), <http://www.baltimoresun.com/news/education/bs-md-ci-doj-school-police-20160810-story.html>.

City School Police Force and shift the significant resources saved to support initiatives that are better suited to serve holistic community needs and foster safe learning environments.

I. HISTORICAL DEVELOPMENT

The heightened use of police officers in schools nationwide has facilitated harsh responses to minor disciplinary issues, contributed to mass incarceration, particularly within low-income communities of color, and created a prison-like environment in schools.¹¹ Based on increased policing, schools have changed their responses to discipline and consequently increased the criminalization of misbehavior.¹² Despite potentially harmful impacts police and school resource officers have on students, the programs have continued to expand with minimal evaluation of their effectiveness.¹³

The history of the presence of police officers in schools dates back to the 1950s, however, federal funding began to significantly increase as a response to school shootings in the 1990s.¹⁴ In 1999, following the shooting at Columbine High School in Littleton, Colorado, the Department of Justice Office of Community Policing Services initiated the “COPS in Schools” program.¹⁵ This program has led to a shift from the discretion of school personnel toward the formalization of responses to school discipline, such as zero-tolerance policies, which have greatly increased the number of students being removed from the education system and placed into the criminal justice system.¹⁶

In 1975, only one percent of the country’s school principals reported police stationed in the school.¹⁷ In 1997, principals in twenty-two percent of schools

¹¹ NAACP LEGAL DEFENSE & EDUCATION FUND, INC., LOCKED OUT OF THE CLASSROOM: HOW IMPLICIT BIAS CONTRIBUTES TO DISPARITIES IN SCHOOL DISCIPLINE 6-10 (2017); Sarah E. Redfield & Jason P. Nance, AMERICAN BAR ASSOCIATION, SCHOOL-TO-PRISON PIPELINE PRELIMINARY REPORT 51-52 (FEB. 2016).

¹² Jason P. Nance, *Students, Police, and the School-To-Prison Pipeline*, 93 WASH. U. L. REV. 919, 937 (2016).

¹³ Redfield & Nance, *supra* note 11.

¹⁴ Connie Mulqueen, *School Resource Officers: More Than Security Guards*, 71 AM. SCHOOL & UNIV. 11, 17(1999).

¹⁵ Chonhmin Na & Denisie Gottfredson, *Police Officers in Schools: Effects on School Crime and the Processing of Offending Behaviors*, 30 JUSTICE QUARTERLY 4, 619, 621 (2013).

¹⁶ Randall R. Beger, *Expansion of Police Power in Public Schools and the Vanishing Rights of Students*, 29.5 SOCIAL JUSTICE 119, 123 (Alt-PressWatch 2002).

¹⁷ Na & Gottfredson, *supra* note 15, at 619-20.

reported an officer placed at the school for at least one hour a week, and by 2008, the percentage had risen to forty percent.¹⁸ Although the original reactionary plan to increase police presence in schools was arguably sensible, it is unclear why this presence continues to increase despite the trends of decreased crime in schools.¹⁹ Law enforcement officers are often equated with increased safety, however, provided the already rampant, growing distrust seen between communities in Baltimore and the police, it must be recognized that overuse and misuse of officers in schools may likely lead to further resentment and distrust of police by people at an even younger age.²⁰ Negative and unnecessary interactions with police in schools can, in turn, affect the long term relationships within society-at-large.²¹

A. *Police in Baltimore City Schools*

In 1967, after several highly publicized events at junior high schools in the city, Baltimore City Public Schools ("BCPS") created a security division.²² At this point, administrators decided that employees who were hired by, and responsible to, the school system could better address their problems than an outside agency.²³ Upon creation, it consisted of a total of twenty-one positions.²⁴ After years of expansion, the division was redesigned in 1984, when it was found that "the word 'security' no longer adequately described the authority, duties, or responsibility of the agency," ultimately leading to the creation of the Baltimore City School Police Force ("BCSPF").²⁵ In 1991, the Maryland General Assembly passed Senate Bill 552 to align the BCSPF with the Maryland Police Training Commission, making the force certified and sworn police officers.²⁶ In 1997, the Baltimore Police Commissioner assisted the School Police department in creating a Criminal Investigation Division, Truancy Unit, and Internal Affairs Division.²⁷ Further, a Community Affairs Unit and a City Wide Safety Patrol program were developed in 2005.²⁸

¹⁸ *Id.*

¹⁹ *Id.* at 622.

²⁰ *Ending the Schoolhouse to Jailhouse Track*, THE ADVANCEMENT PROJECT (Nov.20, 2016), <http://safequalityschools.org/pages/get-involved-law-enforcement>.

²¹ *Id.*

²² School Police History, BALT. CITY PUB. SCHOOLS, <http://www.baltimorecityschools.org/Page/25026> (last visited Oct. 27, 2016).

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ S.B. 552, 1991 Leg., 401st Sess. (Md. 1991) (codified at MD. CODE ANN., EDUC. § 4-306) (current version at MD. CODE ANN., EDUC. § 4-318).

²⁷ School Police History, *supra* note 22.

²⁸ *Id.*

Throughout Maryland, the use of School Resource Officers, generally known as SROs, is initiated by the Maryland Center for School Safety through a collaborative partnership between school systems and law enforcement.²⁹ Maryland defines SROs as a law enforcement officer who has been assigned to a school in accordance with a memorandum of understanding between the chief of a law enforcement agency and the local education agency.³⁰ SROs perform a variety of tasks, including patrolling the school grounds, investigating students who break rules, arresting students who commit crimes, and other non-traditional law enforcement functions such as chaperoning events and counseling students.³¹

Out of twenty-four school districts in Maryland, Baltimore City is the only jurisdiction that employs its own designated school police force, as opposed to using SROs.³² On the contrary, BCSPF officers are employees of the Baltimore City Board of School Commissioners.³³ They enjoy “all the powers of a law enforcement officer in the state,” including arrest powers.³⁴ Despite the statutorily imposed limitations on the jurisdiction of BCSPF officers when they are not on school property, a “Concurrent Jurisdiction Agreement” with the Baltimore Police Department has allowed BCSPF to usurp expanded authority.³⁵ This agreement extends the statutory jurisdiction of the School Police to cover the entire city, regardless of whether or not the officers are addressing issues related to schools.³⁶ Further, “City School police officers receive the same training as other sworn Police Officers in the state of Maryland.”³⁷ There is no additional training or education statutorily required for School Police officers.

Unlike the other school districts across Maryland, Baltimore City Public Schools directly funds their distinct police force.³⁸ In fiscal year 2016, the actual expenditures dedicated to School Police totaled nearly 13 million

²⁹ MD. CODE ANN., EDUC. § 7-1502.

³⁰ MD. CODE ANN., EDUC. § 26-102.

³¹ *Beger*, *supra* note 16 at 121.

³² MD. CODE ANN., EDUC. § 4-318.

³³ MD. CODE ANN., EDUC. § 4-318(c).

³⁴ MD. CODE ANN., EDUC. § 4-318 (d)(1).

³⁵ *School Police Authority*, BALT. CITY PUB. SCHOOLS, www.cityschoolsinside.bcps.k12.md.us/Departments/School_Police/Authority.asp (last visited Oct. 28, 2016).

³⁶ *Id.*

³⁷ *Id.*; *See, e.g.*, C.O.M.A.R. 12.04.01.12.

³⁸ BALT. CITY PUBLIC SCHOOLS, OPERATING BUDGET 2017-2018: PROPOSAL TO THE BALT. CITY BOARD OF SCH. COMM’R 91 (2017), http://www.baltimorecityschools.org/cms/lib/MD01001351/Centricity/Domain/8051/FY2018_ProposedBudget.pdf.

dollars.³⁹ As of May 2015, there were 132 School Police patrol personnel, with an average salary of \$56,296.⁴⁰ While the Baltimore Police Department budget continues to increase exponentially, jumping from \$347.11 million to \$471.63 million between 2012 and 2017,⁴¹ despite scant evidence of its positive impact on public safety, funding to the city schools remains fairly stagnant. In 2012, the Baltimore City Public Schools' budget was \$249.25 million, and in 2017, it had increased to \$265.41 million.⁴² Regardless of the dire need, a significant portion of the budget for Baltimore City Public Schools continues to be allocated towards further policing their students and city residents, while city school teachers are crowdfunding for space heaters to protect their students from dangerously cold classrooms.⁴³

B. The City's Battle for Equitable School Funding

Closures due to inadequate heating in Baltimore City schools made news headlines nationwide in early 2018, and funding inequities have come to the forefront of discussion once again.⁴⁴ While funding continues to flow into waterfront developments,⁴⁵ the Baltimore Police Department,⁴⁶ and a \$35

³⁹ *Id.*

⁴⁰ Letter from Gregory E. Thorton, CEO, Balt. City Public Schools, to Sen. Ferguson, Del. Haynes, Del. Lierman, Del. McIntosh, & Del. Robinson, 1-20, 3, (May 1, 2015).

⁴¹ BALT. CITY OPEN BUDGET, *Safe Neighborhoods Broken Down by Dept.*, (2018), <http://openbudget.baltimorecity.gov/#!/year/2018/operating/0/service/Safe+Neighborhoods/0/departments?vis=lineChart>.

⁴² BALT. CITY OPEN BUDGET, *Operating Budget Broken Down by Program*, (2018), <http://openbudget.baltimorecity.gov/#!/year/2018/operating/0/program?vis=lineChart>.

⁴³ Emily Shapiro, *After Uproar over Kids' Enduring Cold Schools, Fundraising and Repairs Underway*, ABC NEWS (Jan. 6, 2018, 3:08 PM), <http://abcnews.go.com/US/uproar-kids-citys-cold-schools-fundraising-repairs-underway/story?id=52178327>; see also *supra* note 95—96.

⁴⁴ Madison Park, *Baltimore Closes Public Schools after Students Sat in Cold Classrooms*, CNN (Jan. 3, 2018, 2:26 PM), <http://www.cnn.com/2018/01/04/us/baltimore-schools-cold/index.html>; see also Christine Hauser, *Baltimore City Schools Are Without Heat, Prompting Protests From Teachers and Parents*, NY TIMES (Jan. 4, 2018), <https://www.nytimes.com/2018/01/04/us/baltimore-schools-winter-heating.html>.

⁴⁵ Luke Broadwater, *City Council Approves \$660 Million Bond Deal for Port Covington Project*, THE BALT. SUN (Sept. 19, 2016, 8:50 PM), <http://www.baltimoresun.com/news/maryland/baltimore-city/politics/bs-md-ci-port-covington-council-20160919-story.html>.

⁴⁶ BALT. CITY OPEN BUDGET, *supra* note 41.

million dollar youth detention center,⁴⁷ city school students continue to be neglected. While Governor Hogan quickly chided school leaders for “ineptness and mismanagement,”⁴⁸ a Baltimore City Board of School Commissioners Chair explained that maintenance funding issues are more complicated than state lawmakers claim.⁴⁹ Governor Hogan’s statements fail to contextualize the fiscal challenges. He stated that Baltimore City may be one of the “most highly funded school systems in America,” yet it does not even receive the most per-pupil funding in the state of Maryland.⁵⁰ However, the battle over funding between the State and Baltimore City Public Schools has a long history in both the courts and the legislature.

Article VIII of the Constitution of Maryland requires the Legislature to establish a “thorough and efficient System of Free Public Schools” and “provide by taxation, or otherwise, for their maintenance.”⁵¹ Public schools rely on funding from federal, state, and local sources.⁵² In its 1954 decision *Brown v. Board of Education*, ruling that racially segregated schools are “inherently unequal,” the United States Supreme Court labeled public education as “the most important function of state and local governments.”⁵³

⁴⁷ Jessica Anderson, *State Opens \$35 Million Youth Detention Facility in Balt.*, THE BALTIMORE SUN (Sept. 8, 2017, 1:45 PM), <http://www.baltimoresun.com/news/maryland/crime/bs-md-ci-new-youth-jail-20170907-story.html>.

⁴⁸ Luke Broadwater & Michael Dresser, *Lawmakers Call for Fixes to Help Freezing Schools, while Hogan Blasts Baltimore ‘Mismanagement’*, THE BALTIMORE SUN (Jan. 5, 2018, 3:25 PM), <http://www.baltimoresun.com/news/Maryland/Baltimore-city/bs-md-ci-schools-update-20180105-story.html>.

⁴⁹ Letter from Cheryl A. Casciani, Chair, Balt. City Bd. of Comm’rs, to Editor, THE BALTIMORE SUN (Jan. 5, 2018), http://www.baltimorecityschools.org/cms/lib/MD01001351/Centricity/Domain/9714/20180105_LettertoEditor-Final.pdf.

⁵⁰ Jess Gartner, *A Fact/Reality Check on Gov. Hogan’s Baltimore Schools Claim*, THE BALTIMORE SUN (Jan. 10, 2018, 2:45 PM), <http://www.baltimoresun.com/news/opinion/oped/bs-ed-op-0112-hogan-schools-20180110-story.html>.

⁵¹ MD. CONST. art. VIII, § 1.

⁵² STATE OF MD. DEP’T OF LEG. SERVS., OFFICE OF POLICY ANALYSIS, OVERVIEW OF MD. LOCAL GOV’TS, FINANCES AND DEMOGRAPHIC INFO. 85 (Jan. 2018), <http://dls.maryland.gov/pubs/prod/InterGovMatters/LocFinTaxRte/Overview-of-Maryland-Local-Governments-2018.pdf>.

⁵³ *Brown v. Bd. of Educ.*, 347 U.S. 483, 493, 74 S. Ct. 686, 691 (1954); see also U.S. COMM’N ON CIV. RIGHTS, *Public Education Funding Inequity in an Era of Increasing Concentration of Poverty and Resegregation* (Jan. 2018), <http://www.usccr.gov/pubs/2018-01-10-Education-Inequity.pdf> (This is an extensive report that reviews racial inequities nationwide in the public education funding

On average in Maryland, 47.2 percent of public school funding is accounted for through local sources, while the State provides for 48.3 percent.⁵⁴ Baltimore City is one of seven local school systems who depend on the State for over 60 percent of their funding.⁵⁵

In 1979, the School Commissioners of Baltimore City, the Boards of Education of Somerset, Caroline, and St. Mary's Counties, as well as taxpayers, students, parents, and public officials, challenged Maryland's school finance formula in *Hornbeck v. Somerset County Board of Education*.⁵⁶ In 1983, the Court of Appeals of Maryland rejected the challenge to the state's funding system, holding that the Maryland Constitution did not mandate equal per-pupil spending among the districts.⁵⁷ The court interpreted the Maryland Constitution to require that public schools provide all students with an education that is adequate when measured by contemporary education standards.⁵⁸ Further, the court explained that a showing that educational resources in poorer school districts are "inferior to those in the rich districts" does not lead to a conclusion that the state financing system is providing insufficient funding for students to obtain an adequate education.⁵⁹ Despite this ruling, the state failed to change the funding formula.

In 1992, then Mayor Kurt Schmoke announced that the City would join the American Civil Liberties Union ("ACLU") in a lawsuit and once again take the State to court over school funding, explaining that the City "need[s] some kind of judicial intervention to get some kind of meaningful reform."⁶⁰ Governor Schaefer, who served as the mayor of Baltimore City in 1979 when it sued the State concerning the same issue, encouraged Schmoke and other Baltimore leaders to resolve the problem within the political process.⁶¹ Schaefer appointed a commission to review and recommend changes to the school funding formula, and Schmoke agreed to drop the city's support of the lawsuit, leaving local educational activists disappointed and doubtful that another commission would result in meaningful change.⁶²

structure. It is necessary to view this discussion with a lens that is focused on the extreme racial disparities in Baltimore and this report provides further discussion of the underlying issues presumed understood in this comment).

⁵⁴ U.S. COMM'N ON CIV. RIGHTS, *supra* note 53.

⁵⁵ *Id.* (Allegany, Caroline, Dorchester, Somerset, Washington, and Wicomico counties also receive more than 60% of their revenue from the state).

⁵⁶ *Hornbeck v. Somerset County Bd. Of Educ.*, 295 Md. 597, 607, 458 A.2d 758, 764 (1983).

⁵⁷ *Id.* at 619.

⁵⁸ *Id.*

⁵⁹ *Id.* at 639.

⁶⁰ Marion Orr, BLACK SOCIAL CAPITAL: THE POLITICS OF SCHOOL REFORM IN BALTIMORE, 1986-1998, at 170 (1999).

⁶¹ *Id.* at 171.

⁶² *Id.*

In January 1994, the Hutchinson Commission released its final report, which corroborated Baltimore City Public Schools' claims that, without more resources, they could not be expected to meet state standards.⁶³ The report concluded that the proportion of students living in or near poverty is the best predictor of school results, that Baltimore City had the highest percentage of poor students, and that high poverty schools should be targeted for increased state funding.⁶⁴ While the commission's final report recommended an increase totaling \$500 million over five years in state funds for the Baltimore City Public School Systems, the issue of Baltimore school funding was left unresolved after aggressive opposition from legislators of wealthier suburban counties.⁶⁵

Baltimore City Public Schools, with the support of Mayor Schmoke and the Maryland chapter of the ACLU, again filed a lawsuit in 1994, arguing that the children in Baltimore City Public Schools were not receiving an "adequate" education to which they are entitled under the Maryland State Constitution, rather than the 1979 argument that funding was unequal in *Hornbeck*.⁶⁶ They also sought clarification of the *Hornbeck* decision, requesting that the court define "adequacy" in public education.⁶⁷ Mayor Schmoke again abandoned the lawsuit after Governor Glendening believed he could work with legislators in Montgomery County to resolve the funding issue, however, the ACLU continued challenging the constitutionality of the funding disparities.⁶⁸ While the Circuit Court for Baltimore City agreed that Baltimore City public school students were not receiving an "adequate" education, as guaranteed by Maryland's Constitution, the court never addressed the remaining issue of defining what "adequacy" means in public education.⁶⁹ Rather than continuing in the uncertainty of the courts, the State and Baltimore City Public Schools entered into the "City-State Partnership Agreement," which increased state funding to BCPS and provided for increased participation by the State in control and management of the city's schools.⁷⁰

Unfortunately, the battles have not subsided over the years, resulting in a continued failure to provide the necessary educational support and structure to the youth of Baltimore City. While the fight to increase the budget for Baltimore City Public Schools remains uncertain, it is necessary for the school

⁶³ *Id.* at 172.

⁶⁴ *Id.*

⁶⁵ Nettie E. Legters, et al., *Comprehensive Reform for Urban High Schools: A Talent Development Approach*, at 45 (2002).

⁶⁶ *Maryland State Bd. of Educ. v. Bradford*, 387 Md. 353, 361-62 (2005).

⁶⁷ *Id.*

⁶⁸ Orr, *supra* note 60, at 177.

⁶⁹ Laura Chechovich, Policy Brief, *Financing Public Education in Maryland: A Brief History*, MARYLAND EQUITY PROJECT (Sept. 2016) at 1.

⁷⁰ *Id.* at 3.

system to look to how they can address the needs of students from the budget they have available. By reallocating the significant sum spent on the school police force, Baltimore City Public Schools can increase funding to programs that provide the necessary support and structure to learn and achieve.

II. ISSUE

Numerous troubling practices of the dedicated police force for Baltimore City schools raise doubt regarding their effectiveness in protecting the best interests of students. The School Police have failed to comply with current state law and lack appropriate training focused on addressing children's issues effectively, all the while using funds intended for education to further general policing in the city. Additionally, extensive research shows disturbing connections between policing school discipline and the introduction of children to the criminal justice system. The impacts of these issues, most significantly zero-tolerance policies, have been shown to have a severely disproportional impact on youth with disabilities, LGBTQ youth, and youth of color.

A. Practices of the Baltimore City School Police Force Fail to Address Needs of School Children

The distinctions, or lack of, between the Baltimore Police Department ("BPD") and the Baltimore City School Police Force are very uncertain, and lack appropriate policies, procedures, and oversight authority. In August 2016, following an investigation spanning over a year, the Department of Justice ("DOJ") released a scathing 163-page report on the practices of the Baltimore Police Department.⁷¹ The investigation found that school police officers have been increasingly used by the Baltimore Police Department to compensate when they are understaffed.⁷²

The school police officer's jurisdiction is statutorily limited to "the premises of schools and any other property used for educational purposes owned, leased, or operated by, or under the control of the Baltimore City Board of School Commissioners."⁷³ However, their reach is expanded greatly through the authorization to "exercise full police power anywhere within the jurisdiction of the City of Baltimore" in a memorandum of understanding between BPD and the Baltimore City Public School System.⁷⁴ This agreement allows the officers to lawfully act throughout the city of Baltimore, including the power to arrest, as well as assist in active and follow-up investigations.⁷⁵

⁷¹ U.S. DEPT. OF JUST., C.R. DIV., *Investigation of the Baltimore City Police Department* (2016).

⁷² *Id.* at 16.

⁷³ MD. CODE ANN., EDUC. §4-318(d)(2)(i) (2017).

⁷⁴ U.S. DEPT. OF JUST., *supra* note 71, at 16.

⁷⁵ *Id.* at 154.

The DOJ expressed numerous concerns with the agreement between BPD and the school system, including the lack of clarification regarding which agency is in charge of an incident when officers from both agencies respond, which agency's policies control decisions made about an incident, the lack of a defined process for handling complaints of officer misconduct, and improper collection and analysis of data from arrest and field reports when school police officers aid BPD.⁷⁶ They found that these create risks for the officers and the public, leave gaps in accountability for both agencies, and undermine community confidence.⁷⁷ Further, they reported that the lack of properly collected data impacts the ability of both BPD and the school police to supervise their officers effectively.⁷⁸

Under current state law, officers are not permitted to routinely carry guns in school buildings during the regular school days, but can access their weapons in the event of a threat.⁷⁹ Baltimore City school officials recently advocated for controversial legislation that would allow school police officers to carry their guns regularly in school buildings.⁸⁰ Senator Conway introduced Senate Bill 17 in 2015, which proposed the statutory amendment to remove the restrictions on when school police officers are authorized to carry firearms on school property.⁸¹ Regardless, officers have been repeatedly found to have been doing so, in violation of state law, for years.⁸² Furthermore, Maryland Code provides an exception for police officers to carry guns on school campuses, making a prosecution under Education Article § 4-318 difficult.⁸³

The Baltimore City School Police Force officers are trained through the Maryland Police Training Commission and the Civil Service Commission of Baltimore City and are not required to undergo any form of specialized training related to working with young people, such as adolescent development, mental health, or trauma intervention.⁸⁴ According to Gregory Thornton, prior Baltimore City Public Schools CEO, the City Schools police officers annual required training is the same as all other sworn Maryland police

⁷⁶ *Id.* at 154-55.

⁷⁷ *Id.*

⁷⁸ *Id.* at 155.

⁷⁹ MD. CODE ANN., EDUC. § 4-318(d)(3)(i).

⁸⁰ Baltimore City School Police Force – Carrying of Firearms, S.B. 17, 114th Cong. (2016).

⁸¹ *Id.*

⁸² Erica Green, Justice Department Report Cites Lapse in School Police Accountability, THE BALT. SUN (Aug. 11, 2016), <http://www.baltimoresun.com/news/education/bs-md-ci-doj-school-police-20160810-story.html>].

⁸³ MD. CODE ANN., CRIM. LAW § 4-102(a)(1).

⁸⁴ MD. CODE ANN. EDUC., § 4-318.

officers.⁸⁵ It is essential for law enforcement officers, particularly those who are working within schools, to have such training in order to understand the differences in children and youth, and subsequently, how to appropriately respond to the young people they are hired to serve and protect.

Several Baltimore City School Police Force training documents were obtained by *Mother Jones*, including trainings on firearms, cultural sensitivity, and dealing with students with chronic absences and developmental disabilities.⁸⁶ One training document contained a lesson teaching “professionalism through the framework of scholar, statesmen, warrior.”⁸⁷ These training documents contain quotes from “One Warrior’s Creed,” which states, “You may defeat me, but you will pay a severe price and will be lucky to escape with your life....”⁸⁸ These training materials are especially troubling given the lack of requirements regarding training that emphasizes understanding adolescent behavior.

When officers are present in the school environment, their duties often become blurred with the traditional duties of school officials, particularly concerning students who are seen as disruptive or disorderly.⁸⁹ Furthermore, the lack of appropriate training leads to dependence on police intervention by the school staff, resulting in decreased attention to training of school faculty, staff, and administration in regard to handling adolescent behavioral issues appropriately.⁹⁰ “One of the primary reasons for the over-reliance on punitive disciplinary measures is that many teachers and administrators have received insufficient training in classroom management, conflict resolution, and non-punitive approaches to discipline.”⁹¹ A September 2016 Memo from then Acting Chief of School Police, Akil Hamm, to the Baltimore City School Police Force briefly outlines guidelines “to ensure that our interactions with students build trust so that discipline issues and issues of student misbehavior

⁸⁵ Letter from Gregory E. Thorton, CEO, Baltimore City Public Schools, to Sen. Ferguson, Del. Haynes, Del. Lierman, Del. McIntosh, and Del. Robinson (May 1, 2015).

⁸⁶ Jaeah Lee, *These Documents Show How Baltimore School Cops Are Trained to Be “Warriors,”* MOTHER JONES (Mar. 3, 2016), <http://www.motherjones.com/politics/2016/03/baltimore-school-police-training-beating-video>.

⁸⁷ *Id.* (citing Maryland Police and Correctional Training Commissions Lesson Plan, In-Service Training, *The Professional: Scholar, statesmen, warrior*, Jeffrey Jones (April 2015)).

⁸⁸ *Id.* at 34.

⁸⁹ Redfield & Nance, *supra* note 13, at 53.

⁹⁰ *Id.*

⁹¹ *Model School Discipline Policy*, THE ADVANCEMENT PROJECT at 3, http://b3cdn.net/advancement/e2942400eda9feb9b5_9cm6vq112.pdf.

[] can be left to administrators and educators,”⁹² however, the boundaries lack the detail necessary to provide for a meaningful change in practices. Rather than depend on policing, school administration and staff must understand how to handle behavior and disciplinary needs, and must be provided the resources to do so effectively and efficiently.

B. Funds Allocated for Education Are Used to Further City Policing

SROs in school districts state-wide are funded by local police departments,⁹³ however, this is not the case for the Baltimore City School Police Force, which is a division of the Baltimore City Public Schools.⁹⁴ In fiscal year 2016, City Schools spent \$12,848,800 on the school police force.⁹⁵ Based on the Department of Justice Report’s findings of extensive overlap between the BPD and the BCSPF, enough to call it an “auxiliary force,” it is likely that significant sums of money budgeted for the Baltimore City Schools funds general policing of the city, rather than providing much needed resources to city school children.⁹⁶

This correlation is further disturbed by looking to trends in Baltimore’s Operating Budget, where police funding continues to rise, despite a lack of correlation between increased public safety or decreased violence.⁹⁷ Of the \$2.65 billion-dollar Operating Budget for fiscal year 2017, 28 percent of that is allocated to public safety, while only 12 percent is focused on education.⁹⁸ City Councilman Bill Henry explained that, over the last generation, the city has increased spending “to deter and catch criminals by 200 percent, but we’ve only increased what we invest in the programs most likely to keep our children

⁹² Memorandum from Akil L. Hamm, Acting Chief of School Police to Baltimore City Police Force (Sept. 28, 2016).

⁹³ *Adequacy Study: Draft Final Report*, APA CONSULTING, prepared for Maryland State Department of Education at 94 (Sept. 30, 2016), <http://www.marylandpublicschools.org/Documents/adequacystudy/AdequacyStudyDraftReport09302016.pdf>.

⁹⁴ BALTIMORE CITY SCHOOLS, BALTIMORE SCHOOL POLICE FORCE, General Order 10-4, Section B-1, *Organizational Structure* (April 23, 2013), http://www.baltimorecityschools.org/cms/lib/MD01001351/Centricity/domain/8038/generalorders/10-4_OrganizationalStructure_042413.pdf.

⁹⁵ BALTIMORE CITY PUBLIC SCHOOLS PROPOSED FY 18 OPERATING BUDGET at 91 (May 9, 2017), http://www.baltimorecityschools.org/cms/lib/MD01001351/Centricity/Domain/8051/FY2018_ProposedBudget.pdf.

⁹⁶ *Investigation of the Baltimore City Police Dept.*, *supra* note 71.

⁹⁷ BALT. CITY OPEN BUDGET, *supra* note 41.

⁹⁸ City of Baltimore Board of Estimates Recommendations, Executive Summary, Fiscal Year 2017, at 78.

from becoming criminals in the first place by 27 percent.”⁹⁹ Additionally, Councilman Henry noted that the department’s half-a-billion dollar budget is nearly 50 percent more than what the city spends on public schools.¹⁰⁰

C. Criminalizing School Discipline Leads Children into the School-to-Prison Pipeline

Following the uprising in Baltimore after the murder of Freddie Gray in April of 2015, then Principal of Edmondson-Westside High School, Karl Perry, stated that he would “return to zero-tolerance enforcement of my expectations for appropriate behaviors.”¹⁰¹ Two months later, Perry was named the chief school supports officer, responsible for overseeing the school police, as well as attendance, suspensions, enrollment, and athletics.¹⁰² Zero-tolerance policies require harsh punishments for infractions that do not involve a real threat to safety of students or staff, such as talking back or poor attendance, and, in some instances, provide teachers with an excuse to remove children they find to be troublesome or disruptive from the classroom.¹⁰³

While the continuous increases in police spending fail to correlate to a decrease in crime rates, extensive empirical data shows that the chance children will successfully complete school diminishes once they have a punitive interaction with police.¹⁰⁴ The use of officers in schools tends to contribute to an increase of youth in the juvenile justice system and disproportionately impacts youth of color, LGBTQ youth, and youth with disabilities.¹⁰⁵ While disciplinary decisions are often made by teachers, school officials, or officers, they are critical to the education of young people and are generally discretionary, individual choices and are likely impacted by implicit biases.¹⁰⁶

⁹⁹ Bill Henry, *Baltimore can't police itself out of its problems*, THE BALTIMORE SUN (Nov. 8, 2017, 10:30 AM), <http://www.baltimoresun.com/news/opinion/oped/bs-ed-op-1109-our-future-20171108-story.html>.

¹⁰⁰ *Id.*

¹⁰¹ Erica Green, *Inspired by unrest, Karl Perry works to redefine city school climate*, THE BALTIMORE SUN (Oct. 23, 2015, 10:14 AM), <http://www.baltimoresun.com/news/maryland/education/bs-md-ci-karl-perry-20151021-story.html>.

¹⁰² *Id.*

¹⁰³ *Keep them in class*, Editorial, THE BALTIMORE SUN (Jan. 29, 2014, 12:00 PM), <http://www.baltimoresun.com/news/opinion/editorial/bs-ed-schools-suspensions-20140129-story.html>.

¹⁰⁴ Gary Sweeten, *Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement*, 23 JUSTICE QUARTERLY 4 462, at 464 (Dec. 2006).

¹⁰⁵ Redfield & Nance, *supra* note 13.

¹⁰⁶ *Id.* at 54-55.

Punishing adolescent behavior and low-level offenses leads to the “creation” of criminals by arresting youth for what is generally seen as normal, juvenile behavior.¹⁰⁷ Jenny Egan, a juvenile public defender in Baltimore, explained that, “[w]hen we put police officers in school who aren’t trained, who don’t know anything about adolescent development, and you tell them this is a crime, they’re going to do what police are trained to do – arrest people.”¹⁰⁸ Significant differences exist between children and adults, as recognized by the Supreme Court, stating that “[o]ur history is replete with laws and judicial recognition that minors, especially in their earlier years, generally are less mature and responsible than adults.”¹⁰⁹ Further, the effects of involvement with the juvenile justice system on educational outcome has shown to be extremely detrimental. Students who are arrested for the first time in high school face nearly doubled odds that they will drop out, even if they never go to court.¹¹⁰ With a court appearance, the likeliness of dropping out increases by nearly four times.¹¹¹ These numbers become especially startling when looked at next to Baltimore City arrest data. While only ten percent of Maryland’s K-12 school population are in Baltimore City Public Schools, they account for forty-five percent of Maryland children arrested in schools.¹¹²

Despite the large number of arrests, based on an analysis of school-based arrests from 2013-2015, nearly three-quarters of the cases involving youth arrests result in dismissals or are found not guilty.¹¹³ Furthermore, only four percent of all arrests or referrals were found delinquent of a felony offense.¹¹⁴ During the 2014 calendar year, there were 383 student arrests, 34 percent of

¹⁰⁷ Akiva M. Liberman, et al., *Labeling Effects of First Juvenile Arrests: Secondary Deviance and Secondary Sanctioning*, 52 CRIMINOLOGY 345 (2014) (discussing the effects of first arrests on subsequent offending and arrests through the use of labeling theory).

¹⁰⁸ Julia Craven, *Baltimore School Cops’ Abuse of Kids is Rooted in City’s Racist History*, HUFFINGTON POST (Aug. 8, 2016), http://www.huffingtonpost.com/entry/baltimore-school-police_us_57b227f7e4b007c36e4fcb44.

¹⁰⁹ *Eddings v. Oklahoma*, 455 U.S. 104, 115-16 (1982). See also *Montgomery v. Louisiana*, 136 S. Ct. 718 (2016); *Miller v. Alabama*, 132 S. Ct. 2455 (2012).

¹¹⁰ Sweeten, *supra* note 104, at 473.

¹¹¹ *Id.*

¹¹² Craven, *supra* note 108 (citing Jenny Egan, Presentation MD Office of the Public Defender, Juvenile Division of Baltimore City, *2016 School-Based Arrests in Baltimore* (May 19, 2016)).

¹¹³ *Id.*

¹¹⁴ Jenny Egan, Presentation, MD Office of the Public Defender, Juvenile Division of Baltimore City, *2016 School-Based Arrests in Baltimore* (May 19, 2016), <https://prezi.com/43dcfxjgurul/2016-school-based-arrests-in-baltimore/>.

which resulted from incidents of trespassing, disorderly conduct, and common assault, which is generally from fighting.¹¹⁵ It is significant to acknowledge that the No Child Left Behind Act of 2001 introduced requirements regarding the reporting of suspensions and expulsions, but not school-based arrests.¹¹⁶ The lack of required reporting for school based arrests creates motivation to move to different forms of consequences available when schools are able to avoid reporting data that may have a negative impact on their school. For example, a preliminary report by the American Bar Association expressed concerns regarding school officials referring low-performing students to the juvenile justice system in order to prevent low test scores from negatively impacting their schools.¹¹⁷

D. Police Based Discipline Policies Have a Disproportionate Impact on Youth of Color, LGBTQ youth, and Youth with Disabilities

Over-policing of youth, as well as the use of zero-tolerance policies, are consistently shown to disproportionately impact people of color, LGBTQ youth, and youth with disabilities or mental illnesses. As of September 2016, on average in Maryland, the racial composition in schools is 38.2 percent White and 34.1 percent African American.¹¹⁸ In Baltimore, public schools are 7.9 percent White and 80.6 percent African American.¹¹⁹ While the use of school police continues to grow, most schools still do not have police.¹²⁰ However, school policing disproportionately impacts students of color, as 51 percent of high schools with majority Black and Latino enrollment reported having law enforcement on campus in 2013, while this was true for only 42 percent of high schools overall.¹²¹ According to nationwide federal data, Black children made up only 16 percent of all enrolled children in 2011-12, however, they accounted for 31 percent of all in-school arrests.¹²² Compared to other Maryland school districts, City Schools serve more students with

¹¹⁵ Letter from Monique L. Dixon, Deputy Dir. of Policy and Senior Counsel, NAACP Legal Defense and Educ. Fund, to Vanita Gupta, Principal Deputy Assistant Attorney Gen., U.S. Dept. of Justice, Civil Rights Div. (Sept. 8, 2015) (*citing* Baltimore City School Police, 2014 *Baltimore City School Police Arrest Data*).

¹¹⁶ *Preliminary Overview of Programs and Changes Included in the No Child Left Behind Act of 2001*, U.S. DEP'T OF EDUC., https://www2.ed.gov/nclb/overview/intro/progsum/sum_pg9.html.

¹¹⁷ Redfield & Nance, *supra* note 13, at 27.

¹¹⁸ Department of Legislative Services, Overview of Maryland Local Governments Finances and Demographic Information (2017).

¹¹⁹ *Id.*

¹²⁰ *Bullies in Blue*, AM. CIV. LIBERTIES UNION, April 2017, at 11.

¹²¹ *Id.*

¹²² Libby Nelson & Dara Lind, *The School to Prison Pipeline, Explained*, JUST. POL'Y INST. (Feb. 24, 2015), <http://www.justicepolicy.org/news/8775>.

higher needs, including students with disabilities, students living in extreme poverty, and students who have experienced trauma in their lives and communities, and spends more on each of those students.¹²³

Additionally, LGBTQ and gender non-conforming youth are often victimized and disciplined more harshly within the school and juvenile justice systems.¹²⁴ Students with disabilities are disproportionately students of color, especially within discretionary categories.¹²⁵ Further, youth who identify in more than one of these categories are particularly negatively impacted.¹²⁶ As a result, these children are at an extraordinarily high risk of punishment, and are often denied an opportunity to learn, which can lead to lifetimes of detrimental consequences.

III. SOLUTION

A. *Shift Resources Towards a School System Committed to Sustainable Practices Focused on the Holistic Needs of the Community*

Baltimore City's use of school police is only one of many issues currently facing students and potential solutions involve a multifaceted approach. Most significantly, the Baltimore City School Police Force should be disbanded. Further, while the use of school resource officers is far from perfect, the Baltimore City School District should establish a Memorandum of Understanding with the Baltimore Police Department in order to incorporate school resource officers in city schools to address immediate threats to physical safety, as opposed to routine policing. The funding previously allocated for the School Police should be invested in resources that are linked to long-term impacts on public safety and address the mental and physical health, housing needs, and economic opportunities of Baltimore students and their communities.

B. *Eliminate the Baltimore City School Police Force*

Section 4-318 of the Education Article of the Maryland State Code should be repealed.¹²⁷ There have been numerous attempts to make changes, which have either not been implemented or refused altogether. As stated in their recommendations for the Consent Decree between the Department of Justice and the Baltimore Police Department, the Maryland Office of the Public

¹²³ BALT. CITY PUB. SCH., *supra* note 38, at 7.

¹²⁴ Redfield & Nance, *supra* note 13, at 41.

¹²⁵ *Id.* at 34.

¹²⁶ *Id.* at 35.

¹²⁷ MD. CODE ANN., EDUC. § 4-318.

Defender supports abolishing the BCSPF.¹²⁸ Based on the arrest data reports showing the high number of dismissals and types of crimes being charged by the school police, it is necessary to decrease the role of law enforcement in our schools.¹²⁹ In order to avoid unnecessary criminalization of students, police involvement must be limited to circumstances where it is necessary to protect the physical safety of students and staff or to address situations involving criminal behavior of persons other than students.¹³⁰ It is imperative to address misbehavior using consequences focused on the student and using school-based resources, rather than criminal justice relief. The consequences imposed on our youth need to be “reasonable, timely, fair, age-appropriate, and should match the severity of the student’s misbehavior.”¹³¹ Further, to the extent police involvement is present in our school systems, it is necessary to establish well-developed selection and training criteria for SROs.

The U.S. Department of Education and Department of Justice have designed a policy rubric, SECURE, to provide information related to incorporating SROs into school learning environments, with the goal of “preventing unnecessary or inappropriate arrests, referrals to law enforcement, contact with the juvenile justice system, and violations of civil rights laws.”¹³² This rubric provides examples of policies used throughout the country that promote the establishment of responsible school-police partnerships.¹³³ SECURE action steps include the recruiting and hiring of effective SROs and school personnel, as well as methods to keep those hired well-trained.¹³⁴ The rubric recommends requiring that prospective SROs are trained regarding youth development and “listing all required and ongoing trainings, and supervisory structures, for SROs and staff, with clarity regarding agency responsibility for each component.”¹³⁵

For example, a memorandum of understanding used by Denver Public Schools outlines the training an SRO must have specific to the school assigned, the supervising agency of the SRO, and a schools’ right to request an SROs

¹²⁸ *Maryland Office of the Public Defender Recommendations for the Consent Decree between the Department of Justice and the City of Baltimore*, OFFICE OF THE PUB. DEF., at 31 (Sept. 2016) <http://www.opd.state.md.us/Portals/0/Downloads/OPD%20recs%20for%20DOJ%20BPD%20consent%20decree.pdf>.

¹²⁹ See Dixon, *supra* note 115.

¹³⁰ See *Model School Discipline Policy*, THE ADVANCEMENT PROJECT, at 2, http://b3cdn.net/advancement/e2942400eda9feb9b5_9cm6vq112.pdf.

¹³¹ *Id.* at 1.

¹³² U.S. DEPT. OF EDUC. & DEPT. OF JUST., SAFE SCHOOL-BASED ENFORCEMENT THROUGH COLLABORATION, UNDERSTANDING, AND RESPECT, SECURE, STATE AND LOCAL POLICY RUBRIC (2016).

¹³³ *Id.* at 1.

¹³⁴ *Id.* at 8.

¹³⁵ *Id.*

removal or re-assignment.¹³⁶ Additionally, a memorandum of understanding in Broward County, Florida provides an example for defining ways to minimize arrests for minor school-based offenses, eliminate the involvement of SROs in non-criminal matters, and clarifies the roles of SROs and school administrators for addressing discipline of minor student misbehavior.¹³⁷ This agreement uses a “Code of Student Conduct and Discipline Matrix” to guide responses to particular types of misbehavior, and states that “school officials should make every effort to connect students to school or community-based support services, such as counseling, mentoring, or extra-curricular activities.”¹³⁸

Mary Washington, a member of the Maryland House of Delegates on the Education Subcommittee of the House Ways and Means Committee, has stated that she plans to promote solutions to school discipline issues in the General Assembly by refocusing discipline away from zero tolerance policies, as well as properly defining the role of School Resource Officers.¹³⁹ She plans to refocus on “more moderate discipline” that keeps children in school to learn, using misbehavior as an opportunity for learning through the implementation of restorative justice practices and improving training in dealing with children and teenagers for officers.¹⁴⁰ Delegate Washington further stated, “[t]here are proven, research-based strategies to improve results, including making sure all school personnel have training in conflict mediation and positive behavior interventions that allow us to resort less quickly to suspensions and even more serious disciplinary actions.”¹⁴¹

C. Prioritize Violence Prevention

Violence is often discussed solely in terms of direct, physical violence, however, it is necessary to broaden the discourse and understand links between the manifestations of systemic violence.¹⁴² Many Baltimore youth experience violent death in their families and community, yet the massive emphasis that

¹³⁶ *Id.*

¹³⁷ *Id.* at 9-10 (citing *Collaborative Agreement on School Discipline*, 2.01 Responding to Student Misbehavior, Broward County, FL).

¹³⁸ *Safe School-based Enforcement through Collaboration, Understanding, and Respect, Secure, State and Local Policy Rubric*, *supra*, note 132, at 9.

¹³⁹ Mary Washington, *Charting the future of police in Baltimore schools*, THE BALTIMORE SUN (Nov. 19, 2015), <http://www.baltimoresun.com/news/opinion/oped/bs-ed-school-discipline-20151119-story.html>.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² Sarah Henkeman et. al., *Open Guide to a Deeper, Wider and Longer Analysis of Violence*, 10, TRANSDISCIPLINARY PROJECT FOR SOCIAL JUSTICE (2016).

Baltimore's budget puts on policing violence, rather than investing resources in sustainable violence prevention, fails to address the root causes creating this crisis.¹⁴³ Increasing evidence suggests that youth growing up in urban poverty are more likely to experience numerous traumatic events that carry long-term developmental risks and psychological trauma.¹⁴⁴ The funding resources gained by disbanding BCSPF should go towards supportive programs that will directly support the needs of students in Baltimore, particularly in response to the negative outcomes stemming from exposure to violence, and empower them to choose to be successful students and community members.

While police will remain available to address active instances of serious criminal acts, particularly violent crime, Baltimore City Public Schools should prioritize their resources on wrap-around services that focus on the holistic needs of students, including positive alternatives to punitive disciplinary practices and long-term violence prevention. One method that has been progressing into City Schools is the introduction of restorative justice practices.

i. Expand Restorative Justice Programs

The definition of restorative justice practices often varies, but the use as a practical alternative disciplinary practices has grown.¹⁴⁵ Some scholars have described restorative justice practices as creating a sense of community ownership in all participants in order to resolve issues and build relationships, as opposed to traditional practices of using punitive and exclusionary approaches to control student misbehavior.¹⁴⁶ Critics of the traditional approach to school discipline argue that it establishes a power dynamic that is detrimental to students' ability to express their voice and feel empowered, and does not facilitate student growth.¹⁴⁷ The implementation of these practices

¹⁴³ Lawrence Brown, *Violence in Baltimore is Rooted in Baltimore's Invisible & Violent Apartheid*, MEDIUM (Jun. 13, 2017) <https://medium.com/@BmoreDoc/violence-in-baltimore-is-rooted-in-baltimores-invisible-violent-apartheid-d929ad289b2a>.

¹⁴⁴ Kathryn Collins, Ph.D., et al, *Understanding the impact of trauma and urban poverty on family systems: Risks, resilience, and interventions*, FAMILY INFORMED TRAUMA TREATMENT CENTER, at 11 (2010), http://nctsn.org/nctsn/nav.do?pid=ctr_rsch_prod_ar; Robert L. Listenbee, et al, *Report of the Attorney General's National Task Force on Children Exposed to Violence*, DEP'T OF JUST. (Dec. 12, 2012), 4-6, <https://www.justice.gov/sites/default/files/defendingchildhood/cev-rpt-full.pdf>.

¹⁴⁵ Trevor Fronius et al., *Restorative Justice in U.S. Schools: A Research Review*, 5, WESTED JUSTICE & PREVENTION RESEARCH CENTER (2016).

¹⁴⁶ *Id.* at 6.

¹⁴⁷ *Id.*

“develops students’ social-emotional learning, builds community within the school, and strengthens social and human capital.”¹⁴⁸

Through their recent partnership, the Open Society Institute – Baltimore (“OSI-Baltimore”) prepared a Baltimore City Schools Restorative Practices Plan, which emphasized the difficulty in defining this concept.¹⁴⁹ However, they expressed that most programs aim to produce similar outcomes, including community safety, reduced racial disparities in school discipline, “a reversal of the negative academic effects of zero tolerance school discipline policies,” and reduced contacts between students and police in relation to school discipline issues.¹⁵⁰ OSI-Baltimore has been supporting the use of restorative practices in city schools since 2006, by providing a number of grants to community organizations to stem the number of school suspensions and expulsions and provide more effective options.¹⁵¹ One of the grants in the initiative went to the Community Conferencing Center, an organization that continues to partner with them in the current plan, to provide conflict resolution and violence prevention services to school staff, students, and families at one elementary school.¹⁵² City schools that have implemented restorative practices through this partnership have reported positive changes in relationships, as well as school climate.¹⁵³ By refocusing resources into the current plan to make Baltimore City Schools a restorative practices district, efforts and funding can be focused toward shifting school communities away from a punitive and blame-focused environment to “one that builds community and provides effective responses to harm.”¹⁵⁴

ii. *Increase Capacity of the Whole Child Services and Support & College and Career Readiness Departments*

¹⁴⁸ *Baltimore City Schools Restorative Practices Plan Draft*, OPEN SOC’Y INST. – BALT., 9 (2018).

¹⁴⁹ *Id.* at 7.

¹⁵⁰ *Id.*

¹⁵¹ *Private Funders Launch \$1.5 Million Initiative to Reduce Baltimore’s High Number of School Suspensions and Expulsions*, Press Release, OPEN SOCIETY FOUNDATIONS (Sept. 18, 2006), <https://www.opensocietyfoundations.org/press-releases/private-funders-launch-15-million-initiative-reduce-baltimores-high-number-school>.

¹⁵² *Id.*

¹⁵³ *Restorative Practices*, BALTIMORE CITY PUBLIC SCHOOLS, <http://www.baltimorecityschools.org/Page/32219>; see also *Restorative Practices in Baltimore City Public Schools*, OPEN SOC’Y INST. – BALT., <https://www.osibaltimore.org/restorativepractices/>.

¹⁵⁴ OPEN SOC’Y INST. – BALT., *supra* note 148, at 3.

In addition to an increased focus on restorative practices, City Schools should reallocate funds from the School Police to further develop their Whole Child Services and Support and College and Career Readiness departments. The Whole Child Services and Support department leads initiatives concentrated on “wellness, climate, social-emotional, behavioral, wrap-around, extension services, and enrichment opportunities that keep the holistic needs of students, families, and staff at the forefront.”¹⁵⁵ Strategies include Positive Behavioral Interventions and Supports (PBIS), athletics, and resilience and trauma-informed practices.¹⁵⁶

Further, the College and Career Readiness department works to create an environment in which students not only learn about postsecondary options, but are able and committed to pursuing them.¹⁵⁷ It is created to support students in identifying and pursuing opportunities that “meet their needs, talents, and interests,” and provides programming to ensure that students are able to successfully transition into postsecondary opportunities.¹⁵⁸ The department oversees and supports numerous programs geared towards the students’ future beyond high school, including college readiness programs and school counseling services.¹⁵⁹

City Schools spent nearly \$13 million on school police in fiscal year 2016, which is more than the actual expenditures of 2016 on College and Career Readiness and the proposed 2018 budget for the new Whole Child Services and Support department combined.¹⁶⁰ In fiscal year 2016, the College and Career Readiness department had a budget of \$1,704,293, less than a tenth of that of the School Police.¹⁶¹ By investing in the services provided by these departments, the City Schools will be investing in the *future* of their students and communities.

D. Advancing the Cause Through Baltimore’s Legal Community

More than a century of government policy designed to segregate and impoverish Baltimore’s African American population has pained and undermined communities.¹⁶² The Civil Rights Project at UCLA reported that

¹⁵⁵ BALT. CITY PUB. SCH., OPERATING BUDGET 2017-18: PROPOSAL TO THE BALTIMORE CITY BOARD OF SCHOOL COMMISSIONER, at 67 (May 9, 2017) *available at* http://www.baltimorecityschools.org/cms/lib/MD01001351/Centricity/Domain/8051/FY2018_ProposedBudget.pdf.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.* at 66.

¹⁵⁸ *Id.*

¹⁵⁹ *Id.* at 66-67.

¹⁶⁰ BALT. CITY PUB. SCH., *supra* note 155, at 92.

¹⁶¹ *Id.* at 67.

¹⁶² See generally Richard Rothstein, *From Ferguson to Baltimore: The Fruits of Government-Sponsored Segregation*, ECONOMIC POLICY INSTITUTE (April 29, 2015),

Maryland was the third-most-segregated state in the United States for African American students in 2014.¹⁶³ In 1990, 61.6 percent of Baltimore City Schools had 90 percent or more students of a racial minority; in 2014, that number had risen to 75.8 percent.¹⁶⁴ In order to address the needs of Baltimore City school children, we must take an honest look at the consequences of generations of racial segregation, redlining, urban renewal, and divestment. When children continue to grow up without safety and stability, our entire society suffers.

Empowering the students of Baltimore City Public Schools and their communities is not a challenge that these proposed solutions alone can solve. However, a collective investment by the legal community, created to support the greater Baltimore community in developing effective solutions, to provide holistic legal services is a role which we should prioritize. While there are numerous sectors that could benefit from legal assistance, the ill effects of poverty and its effects on students may be alleviated by the addition of school-based legal services (SBLS).¹⁶⁵

SBLS programs typically provide free advice or representation to low-income families pertaining to civil legal issues, such as housing, public benefits, consumer protection, domestic violence, and access to special education.¹⁶⁶ In addition, some programs incorporate legal education courses, such as “know your rights” workshops.¹⁶⁷ Similar to medical-legal partnerships, including these programs within schools makes them more accessible and easier to navigate.¹⁶⁸ SBLS programs help identify legal issues and provide assistance as needed, which allows schools “to ensure that students are healthier, safer, and more ready to learn.”¹⁶⁹ While there are an abundance of methods through which lawyers and law students can work

<http://www.epi.org/blog/from-ferguson-to-baltimore-the-fruits-of-government-sponsored-segregation/>.

¹⁶³ Liz Bowie & Erica Green, *Bridging the Divide: The struggle to move past segregated schools*, THE BALTIMORE SUN (Mar. 17, 2017), <http://data.baltimoresun.com/news/bridging-the-divide/>.

¹⁶⁴ *Id.* (citing U.S. Dept. of Educ., National Center for Educ. Statistics, Common Core of Data (analysis by the Maryland Equity Project)).

¹⁶⁵ Barbara Fedders & Jason Langberg, *School-Based Legal Services as a Tool in Dismantling the School-to-Prison Pipeline and Achieving Educational Equity*, 13 U.MD. L.J. RACE RELIG. GENDER & CLASS 212 (2013).

¹⁶⁶ *Id.* at 229.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.* at 230.

¹⁶⁹ *Id.*

towards a more just Baltimore, SBLS are one avenue for the legal community to invest into the greater Baltimore community.

CONCLUSION

Law enforcement's presence in our schools increased following incidents like school shootings, however, this interest is not effectively correlated to the policing efforts currently present. Rather than policing, especially in consideration of the growing alienation and distrust between the community and law enforcement, it is crucial to shift our focus to resources that are consistent with the best interest of the student and school. Youth in Baltimore City Schools are often coming from violent neighborhoods and have experienced extensive trauma within their homes and communities. In addition to shifting the funds dedicated to the BCSPF back into the schools, it is necessary for the city and state to make racially equitable funding a priority by investing more resources into our communities facing histories of injustice.¹⁷⁰ The financial costs of policing schools are steep, but more significantly, the mistreatment of students, harm to the learning climate, and contribution to the school-to-prison pipeline leads to devastating effects on the lives of students and their communities.

In order to provide an equal opportunity for social and economic mobility and to create safe learning environments for all students, as well as cease the flow into the school-to-prison pipeline, we must eliminate these practices that continue to unnecessarily push students out of the classroom. General policing, court involvement, and prosecution should be replaced with holistic approaches using evidence-based methods, such as restorative justice. Although many may presume that law enforcement is better suited to address certain disciplinary issues, treating these concerns as crimes fails to appreciate the significant and adverse educational and long-term consequences that result. At the very least, Baltimore youth deserve safe schools and meaningful educational opportunities. As a city, and a nation, it is necessary to reconsider the narrative that the presence of law enforcement promotes a safe environment and implement approaches that are focused on evidence-based initiatives.

¹⁷⁰ See generally, Lawrence Brown, Black Public Schools Need Racially Equitable Funding in Baltimore, MEDIUM (Oct. 10, 2017) <https://medium.com/@BmoreDoc/black-public-schools-need-racially-equitable-funding-in-baltimore-366a0d5580a2>.