



October 16, 2020

Dear Attorney General Grewal and Acting Commissioner Dehmer,

We write to request your assistance and urgent action on an issue of pressing importance for New Jersey public school students and communities: the ongoing use of local law enforcement by school districts across the state. This issue has assumed a new urgency in light of the nationwide movement to reduce police presence in schools and redirect resources to more productive and effective strategies for improving school climate and ensuring student safety.

Attorney General, you have expressed a strong public commitment “to a criminal justice system that is fair, transparent, and free of bias” and that seeks “to promote the culture of professionalism, accountability, and transparency.” You have further acknowledged that “we must do more, and we are committed to working with our partners in law enforcement and the broader community to identify additional opportunities for improvement.”¹

Education Law Center and the American Civil Liberties Union of New Jersey believe it is time to apply these commitments to the use of police, School Resource Officers (SROs) and other law enforcement personnel in our public schools.

Since 1988, New Jersey school districts have been required to sign a Memorandum of Agreement (MOA) with their local law enforcement agency. Individual districts can add provisions or modify the MOA within certain limits. But beyond the baseline template of the MOA provided by the Department of Education (DOE), neither the DOE nor the Office of the Attorney General make these agreements publicly accessible or provide any information about them, including the number or type of police or other law enforcement personnel deployed in district schools or the amount and source of public funds expended for these purposes. There is also no public review of the impact of such programs.

Without transparent public access to the signed MOAs and more complete and reliable data about the deployment of law enforcement personnel, it is difficult to accurately assess the landscape of policing in New Jersey schools and even more difficult to evaluate the impact.

By way of context, the most current information from the bi-annual federal Civil Rights Data Collection (CRDC) is for the 2015-16 school year. It estimates that 31.9% of NJ high schools, 16.8% of middle schools, and 11.2% of elementary schools in New Jersey employed some form of sworn law enforcement officer. In addition, 54.4% of high schools, 38.5% of middle schools, and 31% of elementary schools in New Jersey employed some form of security guard. Aside

¹ *Statement of Attorney General Gurbir S. Grewal Concerning Developments Following the Death of George Floyd*, NEW JERSEY OFFICE OF THE ATTORNEY GENERAL (May 29, 2020), <https://www.nj.gov/oag/newsreleases20/pr20200529b.html>

from being several years old, this data does not identify what types of officers are employed in these schools, how the officers are used, the amount expended for their employment, or how they are funded.

The NJDOE's *Annual Report to the Education Committees of the Senate and General Assembly on Student Safety and Discipline* for the 2017-2018 school year reported over 7,000 police "incidents," 2,829 of which were mandatory referrals, that led to 1,385 student school-related arrests.² "Male offenders were more likely to be arrested than females...high school students more likely than students in other grade levels, and students with disabilities more likely than students without disabilities."³

Further, both national and state data show that Black and Latinx students have been disproportionately impacted by police presence in schools, and that police conduct while employed in schools raises additional concerns for students of color. For example, "schools with police reported 3.5 times as many arrests as schools without police," and "[B]lack students were arrested at a rate of 3 times that of white students. In some states, they were eight times more likely to be arrested."⁴

In addition to these stark racial disparities, there is no evidence that the presence of police officers in schools has a positive impact on school safety and considerable evidence of negative impact, particularly on students of color.⁵

As a recent summary of available research on the impact of policing in schools noted: "While there is no conclusive evidence that SROs reduce crime among students or prevent mass shootings, the research shows that the potential costs to students and communities are real. Evidence shows that the presence of SROs can mean increased rates of arrests of students for minor offenses, such as disorderly conduct or simple assault, resulting in greater numbers of children than necessary being exposed to the justice system."⁶

Kupchik's research review concluded:

Research also shows that schools with SROs tend to have higher rates of exclusionary school discipline than do other, comparable, schools...Importantly, youth of color are considerably more likely than white youth to experience these harms. A large volume of research demonstrates consistently that youth of color are at significantly greater risk of exclusionary punishment, and that this

² NEW JERSEY DEPARTMENT OF EDUCATION, ANNUAL REPORT TO THE EDUCATION COMMITTEES OF THE SENATE AND GENERAL ASSEMBLY ON STUDENT SAFETY AND DISCIPLINE IN NEW JERSEY PUBLIC SCHOOLS (2019), <https://www.state.nj.us/education/schools/vandv/1718/StudentSafetyDiscipline1718.pdf>

³ *Id.* at 8

⁴ ACLU, COPS AND NO COUNSELORS (2019), <https://www.aclu.org/issues/juvenile-justice/school-prison-pipeline/cops-and-no-counselors>

⁵ Alexis Stern & Anthony Petrosino, *What Do We Know About the Effects of School Based Law Enforcement on School Safety*, WEST ED. JUSTICE AND PREVENTION RESEARCH CENTER (2018), <https://www.wested.org/wp-content/uploads/2018/04/JPRC-Police-Schools-Brief.pdf>

⁶ Aaron Kupchik, *Researching the Impact of School Policing*, END ZERO TOLERANCE (July 31, 2020), <https://www.endzerotolerance.org/single-post/2019/03/11/Research-on-the-Impact-of-School-Policing>

discrepancy is not accounted for by different rates of student misbehavior. Youth of color are also more likely to be arrested at school and suffer the consequences of an arrest record.”⁷

Not only is policing in schools shown to be ineffective, it is also costly to districts and often preempts better approaches. As Kupchick’s review found, “SRO programs are very expensive, as well. To the extent that funding SRO programs means that evidence-based school crime reduction programs, such as Positive Behavioral Interventions and Supports or Social-Emotional Learning programs, go unimplemented, this would mean missed opportunities to pursue strategies shown to be effective....”⁸

In light of what we already know about the unequal application of criminal justice in our state, it is imperative that policing practices that annually result in thousands of recorded incidents and arrests of young people in school settings receive renewed scrutiny and reform. To that end, we ask that the Office of the Attorney General or the DOE, or where appropriate, the two entities in collaboration, implement the following steps as soon as possible:

1. Create a public, easily accessible and up-to-date statewide repository of all MOAs signed by school districts with local law enforcement agencies and require districts to post local MOAs on the district website. This would provide public access to statewide practices and information about any modifications made by local districts to the state MOA template.
2. Develop an annual, publicly available data set to accompany the [school safety annual report](#) with every school’s in-school and out-of-school suspensions and police referrals and arrests by category of offense (from minor infractions to more serious types of offenses), broken out by race, gender, disability and grade level.
3. Publicly report the number and type of law enforcement officers in school districts annually on the NJ performance report. Identify the type of officers (SRO, SLEO Class II, SLEO Class III, etc.) as collected from districts by the CRDC and the funding source and funding amount for each law enforcement officer employed by the district.
4. Expand NJ’s [use of force portal](#) to include documentation of any use of force by law enforcement personnel in a school setting.
5. Develop and adopt guidelines governing district expenditure of the nearly \$300 million in categorical “security aid” appropriated annually by the Legislature pursuant to the School Funding Reform Act (SFRA). Such guidelines should prohibit the use of state school security aid to hire police officers and instead promote research-based practices to improve school safety and climate.

⁷ *Id.* at 3

⁸ *Id.* at 3

We urge you to consider these recommendations in a timely fashion and request an opportunity to meet with you to discuss a process and timeframe for advancing these essential reform measures. We stand ready to work with your offices and look forward to your response.

Sincerely,



David Sciarra, Esq.
Executive Director
Education Law Center
dsciaara@edlawcenter.org
60 Park Pl. Suite 300
Newark, NJ 07102
973-624-1815



Jeanne LoCicero, Esq.
Legal Director
American Civil Liberties Union
of New Jersey
jlocicero@aclu-nj.org
P.O. Box 32159
Newark, NJ 07102
973-854-1715