

# **POLICE AND PENNSYLVANIA'S SCHOOLS:**

**What Education  
Leaders Need To Know**

# ACLU of Pennsylvania School Policing Program

## Our Goals

- Reduce unnecessary student arrests.
- Reduce harmful physical interactions between students and school security.
- Reduce the use of summary citations as a form of punishment.
- Increase student support staff and resources.
- Increase the use of alternatives to justice system involvement.
- Educate school leaders about the collateral consequences of student contact with the justice system.

## Our Program

The American Civil Liberties Union of Pennsylvania (ACLU-PA) organized two school policing summits – in 2018 and 2019 – to share information about student safety with education leaders. The school-to-prison pipeline issue, including zero-tolerance disciplinary practices and school arrests, has been a focus of ACLU-PA’s work since 2012. In 2013, we published the report *[Beyond Zero Tolerance: Discipline and Policing in Pennsylvania Public Schools](#)*, which analyzed statewide school discipline and arrest data and policies. The report was updated in 2015. Its publication went hand-in-hand with campaigns to change district policies.

We have also played a role in public debate and policy-making about school safety. ACLU-PA staff members have served on school safety committees and task forces. In March 2019, we contributed to the ACLU national report *[Cops and No Counselors: How the Lack of School Mental Health Staff is Harming Students](#)*.

This program builds on our longstanding work on the rights of students and families in public schools. For several decades, ACLU-PA has published *[Know Your Rights: A Handbook for Public School Students in Pennsylvania](#)*; the most recent edition was published in June 2017. That same year, we launched a resource-rich website, [www.endzerotolerance.org](http://www.endzerotolerance.org).

## Our Project in Allegheny County, Pennsylvania

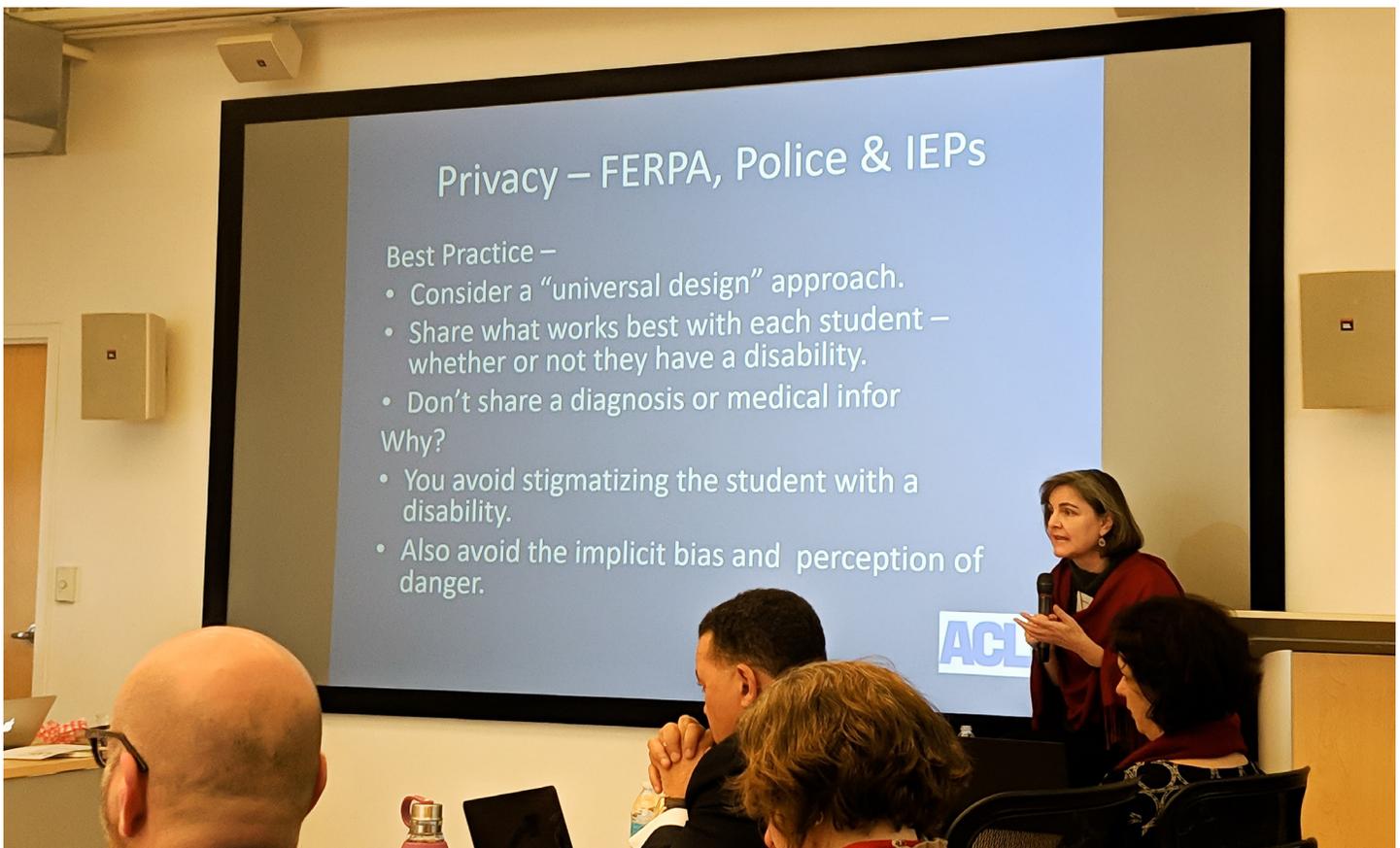
In 2018, we began a two-year project working in select Allegheny County public school districts to reduce unnecessary student involvement with the justice system, with a focus on Black girls and students with disabilities. The project works to catalyze community awareness and action and to inspire district leaders to adopt best practices. It has received generous support from the FISA Foundation, The Heinz Endowments, and The Pittsburgh Foundation.

## Our Next Steps

The ACLU of Pennsylvania has committed to taking the following steps on the school-to-prison pipeline issue, and this work has already started:

- ▶ Sponsoring workshops on topics addressed at the school policing summits, such as the collateral consequences of student involvement with the justice system, alternatives to arrest, and issues affecting students with disabilities. In July 2019, we co-sponsored (with the Black Girls Equity Alliance) a Pittsburgh workshop on the collateral consequences of student contact with police.
- ▶ Publishing a quarterly e-newsletter on school policing for district leaders and board members.
- ▶ Assisting districts with reviewing and interpreting data on student arrests, involvement with the justice system, and related equity issues.
- ▶ Posting a Pennsylvania discipline data dashboard on [www.endzerotolerance.org](http://www.endzerotolerance.org). The dashboard has profiles of all Pennsylvania public schools. It documents their use of out-of-school suspensions and arrests, disaggregated by race, gender, and disability status, and it shows the number of student support service employees in every school compared to the number of students.

**For more information and assistance, contact us at [stpp@aclupa.org](mailto:stpp@aclupa.org).**



*Susan Mizner of the ACLU's Disability Rights Project spoke at the Pittsburgh summit.*

## Contents

<b>ACLU of Pennsylvania School Policing Program</b> .....	<b>2</b>
<b>Overview: Support for School Leaders</b> .....	<b>5</b>
<b>Introduction: More Officers, Bigger Roles</b> .....	<b>7</b>
<b>1. School Policing: What the Research Shows</b> .....	<b>8</b>
School Shootings: What Preventive Measures Work?.....	<b>9</b>
Alternative Policy: ‘Counselors, Not Cops’.....	<b>12</b>
<b>2. Student Contact With Police: The Collateral Consequences</b> .....	<b>13</b>
What Happens to a Young Person’s Records After an Incident at School?.....	<b>16</b>
<b>3. Student Arrests: Statewide Trends</b> .....	<b>18</b>
Where to Find Data About Your District.....	<b>20</b>
Fact Sheet – Supporting Pennsylvania Students: The Choice.....	<b>21</b>
<b>4. Reforming Officers’ Role in Schools: A Case Study of Spokane, Washington</b> .....	<b>23</b>
Implicit Bias, Discipline, and School Policing.....	<b>27</b>
<b>5. Students With Disabilities &amp; Police: Best Practices</b> .....	<b>28</b>
Federal Privacy Law on Sharing Student Records.....	<b>30</b>
Disability & Race: A Policy Response.....	<b>32</b>
<b>6. Reducing Student Arrests: Philadelphia’s Diversion Program</b> .....	<b>33</b>
<b>7. Memoranda of Understanding: The Formal Agreements Between     School Districts &amp; Police</b> .....	<b>36</b>
<b>School Policing Summits: The Details</b> .....	<b>39</b>
Feedback from Summit Participants.....	<b>39</b>
Presenters and Participants.....	<b>40</b>

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Olivia Pennoyer and Lucy Corlett provided research and editing support. Peggy Curchak and Sara Rose provided assistance with editing. Justina McMinn and Ashley Arnold assisted with the summits.

We would like to thank our funders: FISA Foundation, The Heinz Endowments, The Pittsburgh Foundation, and donors to the American Civil Liberties Union.

# Overview: Support for School Leaders

School policing issues have come up within school communities nationwide, sometimes in the context of incidents where there has been conflict between students and police. **District-level decision-makers need to know: What choices can they make to keep students and educators safe from physical, social, and emotional harm?**

To inform these decision-makers about the school policing issue, the American Civil Liberties Union of Pennsylvania (ACLU-PA) convened two gatherings of Pennsylvania school district senior staff, school board members, and juvenile justice experts. The purpose of the summits is to encourage district-level decision-makers to take a better-informed approach to school safety and policing. The information that we shared in these summits is based on research and on the policies and practices that have grown out of incidents and community struggles.

The first daylong summit was in January 2018 (Harrisburg), and the second was in March 2019 (Pittsburgh). At these gatherings, school leaders explored critical issues about school climate and the role of police in public schools. We discussed:

- What the research shows on the impact of school policing.
- The collateral consequences of student contact with police.
- How to develop diversion programs that provide alternatives to arrests.
- The impact of law enforcement on students with disabilities.
- Alternative approaches to discipline.
- How to draft agreements between districts and police departments.

Our goal is to create schools where all students receive fair treatment; where fewer of Pennsylvania's youth enter the criminal justice system; and where students are safe, supported, and included in our schools.

Twenty-one school districts have participated in these summits. This report summarizes the presentations and discussions from these sessions, with a focus on the most recent one, in March 2019. Highlights from the 2018 summit are also included.

**This report is organized by topics**, each of which school decision-makers should consider in their efforts to keep all of their students safe. Each of these topic sections includes a **summary** of the presentation and further **details**. In many cases, we offer **FAQs**, links to **resources** that offer more information, and ideas for **action steps** that leaders can take in their own districts regarding that topic.

At the end of the report, we include some **summit participants' responses** and **lists of the presenters and the school districts represented at the summits**.

## ACLU Resources for School Leaders

The following new resources developed for the summits can be found online at <https://www.endzerotolerance.org/schoolpolicingsummit>.

- **Q&A on School Discipline for Pennsylvania School Leaders**  
Common questions and answers regarding zero tolerance, racial disparities, and discipline.
- **Q&A on School Policing for Pennsylvania School Leaders**  
Common questions and answers regarding the role and impact of police in schools and student rights.
- **Students and the Justice System: Collateral Consequences**  
A memo describing the lasting negative impacts of police interactions with students.
- **Model Memorandum of Understanding**  
The model MOU approved by the Pennsylvania State Board of Education with ACLU annotations.
- **School Policing: What the Research Shows**  
A report from the school safety expert Aaron Kupchik about the impact of police in schools.



*At the summit in Pittsburgh, Vanessa Torres Hernandez talked about school discipline reform efforts in Spokane, Washington.*

# Introduction: More Officers, Bigger Roles

Over the last 25 years, both the number of school-based police in the United States and the roles of these officers have expanded. With this increasing presence has come an increase in student arrests and referrals to law enforcement, which is when a student is reported to police, regardless of the case's outcome. School administrators have struggled with when to involve police in schools, how to address the problems created by their presence, and how to address the collateral consequences of police contact with students.

The last 18 months have seen a wave of policy-making in the aftermath of the February 2018 school shooting tragedy in Parkland, Florida, in which 17 people were killed.

In June 2018, Pennsylvania legislators enacted [Act 44](#), which expanded funding for various school “hardening” measures, such as adding police and hardware to campuses. Specifically, the legislation:

- Provided \$60 million for safety and security grants (police, equipment, training, and counseling). (This funding is in addition to a long-standing [state grant program](#), begun in 2010, which funds school police positions through the Pennsylvania Department of Education's Office for Safe Schools.)
- Required schools to conduct comprehensive safety and security assessments.
- Established a “Safe2Say” anonymous reporting system (run by the Pennsylvania Office of Attorney General).
- Mandated the appointment of school safety coordinators.
- Established standards for school security staff.
- Expanded the state's resources for “risk and vulnerability” assessments.

The primary impact of post-Parkland legislation and policy-making has been to increase police presence in our school districts. Law enforcement now plays a more multi-faceted role in schools than ever before. **But these changes can adversely affect school communities, causing both immediate and collateral consequences.**

Pennsylvania has the third highest student arrest rate in the country, with especially high rates for Black students, students with disabilities, and Latinx students. Today, Black boys with disabilities are arrested at the highest rates of any student group. Black girls are arrested in school at five times the rate of White girls.

Contact between students and police can have long-lasting negative consequences, whether the young person is arrested or receives a summary citation. In addition to the immediate harm, the students often end up with records that may follow them throughout their lives. Yet these impacts are not well understood by district leaders.

At the same time, Pennsylvania schools are understaffed in critical student support positions, such as counselors, psychologists, nurses, and social workers.

**The need for administrators and board leaders to discuss the details of school policing is urgent.**

# 1. School Policing: What the Research Shows

**Aaron Kupchik**

**Professor of Sociology and Criminal Justice, University of Delaware**

## Summary

Many school administrators make decisions about school safety and policing that are not based on research. Although research on the impact of school policing on safety is not conclusive, there is strong evidence to suggest that the presence of police in schools can have a negative effect on students. It can lead to increased rates of school discipline and less-inclusive school climates. In addition, student arrests, particularly of Brown and Black children, increase with the presence of school police.

**Note:** Pennsylvania schools have two different types of sworn police officers: School Police Officers (employed by a school district) and School Resource Officers (employed by a local or state law enforcement agency and assigned to schools). School security guards (without police powers) also work in schools.

## Details

Two main claims made by proponents of increased policing are that school-based police prevent or thwart armed attacks on schools (i.e., school shootings) and that they can control and prevent crime among students.

When it comes to the goal of preventing mass shootings, we know very little. Data from the National Center for Education Statistics indicate that student deaths at school are still very rare events. The Centers for Disease Control and Prevention estimate that 1% to 2% of all homicides of youth ages 5-18 happen on school grounds or on the way to or from school.

Additionally, mass shootings have occurred at schools both with and without sworn law enforcement officers. Although there are known instances of school police intervening to end a school shooting, this is uncommon. Because of the rarity of such interventions – and of school shootings themselves – we have little empirical evidence on whether or how school-based police may or may not be able to prevent such horrific events.

Studies have been inconclusive with regard to how effective having school-based police has been in reducing student misconduct. This subject is difficult to study because causal effects are uncertain and the quantity and quality of interaction with officers differs from school to school, depending on the students and officers. Although some studies suggest that the presence of officers prevents student crime, a greater number of credible studies comparing schools with and without school police suggest that there is either no impact on student crime rates or that the addition of officers is associated with more student misconduct.

**“It is important that administrative decisions about school policing be based on evidence, not assumptions of effectiveness.”**

**Aaron Kupchik**

Although there is no conclusive evidence indicating that school police reduce crime among students or prevent mass shootings, the research does show that the potential costs to students and communities of having police present are real. Evidence shows that such a presence can mean increased rates of student arrests for minor offenses such as disorderly conduct or simple assault, resulting in children being needlessly exposed to the justice system.

In addition, a study published in *Adolescent Research Review* in 2016 reviewed and analyzed existing research and found that schools with police have higher rates of exclusionary discipline, such as out-of-school suspensions and expulsions, than do other comparable schools.

Furthermore, although the National Association of School Resource Officers (NASRO) says that school police should not discipline students, 63% of secondary school administrators report that police do participate in discipline. Research suggests that even when police are not directly involved in school discipline, their presence can shift schools' practices in subtle ways that make exclusionary discipline more likely.

Some studies have shown a reduction in students' fear, while others have shown an increase in fear. This difference may be based on whether there is trust in the police officer.

## School Shootings:

### What Preventive Measures Work?

- » Student misbehavior, including criminal behavior, is less likely in schools that have inclusive social climates, scholars have found. These are schools where students feel valued, respected, listened to, and part of a community.
- » In a 2014 study, Eric Madfis looked at 11 averted school attacks. He found:
  - Of the people who came forward to share information, most were students (9 of 11 incidents). In 2 cases, the students alerted a school resource officer.
  - Administrators involved in these cases said that having a positive school climate made it possible for students to come forward. Some situations were more complex, however, such as when students lied or when many people besides the informing student had the same information and did not inform authorities.
  - The deterrence of these events was not due to the presence of metal detectors, locked doors, security cameras, or police.
- » The National Police Foundation's Averted School Violence Project recommends that:
  - Adults should maintain trusting relationships with students.
  - School personnel should watch for signs of distress (depression, bullying, exclusion).
  - Students, parents, and staff should be taught to recognize warning signs for violence.
  - Schools should provide a way for members of their community to report any concerns about possible violence.

#### Sources:

Madfis, E. (2014). "Averting School Rampage: Student Intervention Amid a Persistent Code of Silence." *Youth Violence and Juvenile Justice*, 12(3), 229-249.

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

However, a forthcoming study shows that although there may be less stated fear, there was more of a sense of risk and increased anxiety in students who worry that an officer is there **because** something will happen.\*

One other branch of research on schools is relevant here: studies on school social climate. Scholars studying student behavior have found that **students are less likely to misbehave, including criminal behavior, in schools that have inclusive social climates.** These are schools where students feel valued, respected, listened to, and part of a community. Research suggests that despite good intentions, officers can make school climates less inclusive and reduce trust, which undermines effective behavior management.

NASRO is seeking to train officers in de-escalation, trauma-informed care, and interactions with students with disabilities. NASRO teaches a “triad” model where school police serve as law enforcement, educators, and informal counselors. This training is valuable, but it’s important to note that whatever training school police receive, the training and socialization of officers will never be equivalent to that of actual counselors. In some ways, such as the ability to maintain confidentiality, the roles of officers and counselors are very different. **Even the most caring and best-trained police cannot, and should not be expected to, replace counselors.**

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\* F. Chris Curran, Samantha Viano, Aaron Kupchik, and Benjamin W. Fisher (draft manuscript) “How Do Interactions with School Resource Officers Predict Students’ Likelihood of Being Disciplined and Feelings of Safety? Mixed-Methods Evidence from Two School Districts.”



*Rhonda McKitten (shown in July 2019) discussed the consequences of student contact with police.*

Importantly, **youth of color are considerably more likely than White youth to experience the harms of over-policing.** A large volume of research demonstrates consistently that youth of color are at significantly greater risk of exclusionary punishment and that this 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.

Another consideration is implicit bias, which plays a role in school discipline when students of color are seen as threatening and are disproportionately punished and arrested. Arrest rates, particularly for minor crimes and for Black students, are higher in schools that have officers, despite efforts to teach de-escalation. **Schools with police tend to become more focused on law and order and less focused on students' social and emotional well-being.** Many behaviors that are typical of youth are more likely to be viewed as legal or criminal issues.

Students feel more threatened by a police presence at schools that serve students from neighborhoods where police are distrusted, particularly after acts of police violence.

It is important that administrative decisions about school policing be based on evidence, not assumptions of effectiveness. A study by Eric Madfis (2014) on averted school shootings showed that students are more likely to share information on a potential attack when they feel supported, respected, and valued at their school. Having a safe school environment is about trust, support, and bonds – not necessarily law enforcement.

## FAQ

**Q: How do you balance what the research shows with the push from the state to harden schools?**

**A:** Stick with the data. The more we couple law enforcement with educational settings, the greater the likelihood of over-policing and criminalizing students. We need to hold students accountable for behavior, but in ways that build students up, not break them down. Programs that create an atmosphere of respect within the school environment, such as restorative practices and empathy training, are promising.

## Resources

- “Research on the Impact of School Policing” (July 2019), full text of Dr. Kupchik’s summary of existing research, developed for the ACLU of Pennsylvania School Policing Summits <https://drive.google.com/file/d/1yXBHTREHRRy0VaPm7zcLi1PL04rcpnou/view>
- “What Is a Trauma-Informed School?” from the Treatment and Services Adaptation Center <https://traumaawareschools.org/traumaInSchools>
- “What Do We Know About the Effects of School-Based Law Enforcement on School Safety?” (2018), a research brief from the WestEd Justice & Prevention Research Center <https://www.wested.org/wp-content/uploads/2018/04/JPRC-Police-Schools-Brief.pdf>
- “Police Officers in Schools: Effects on School Crime and the Processing of Offending Behaviors” (2011), *Justice Quarterly*, a study by Chongmin Na & Denise C. Gottfredson that examines student misconduct and crime in schools with and without school-based police <https://ccjs.umd.edu/sites/ccjs.umd.edu/files/pubs/COMPLIANT3%20-%20Police%20Officers%20in%20Schools.pdf>

# Alternative Policy: ‘Counselors Not Cops’

**Liz Sullivan-Yuknis**

**Associate Director, National Economic and Social Rights Initiative**

Sullivan-Yuknis spoke at the summit about the work of the [Dignity in Schools Campaign](#), a national coalition of 108 organizations across 26 states and the District of Columbia that challenges the systemic problem of school exclusion – disciplinary measures that remove a student from classes. The campaign has developed **model policies for school districts**. Its focus is three-pronged: improvement of school climate, school-wide positive approaches to discipline, and limits on school exclusion and the role of police. To this end, Sullivan-Yuknis highlighted the “Counselors Not Cops” initiative, a set of policy recommendations to end the regular presence of law enforcement in schools, limit police contact with students, and increase student support services.

A 2015 pilot program in four schools in Minneapolis replaced officers at school with outreach workers and saw an average 10 percent reduction in suspensions in a six-month period. Sullivan-Yuknis shared success stories from New York City and Los Angeles, where schools invested in approaches like restorative justice and positive behavior supports rather than suspensions. Both cities experienced a dramatic reduction in school exclusion. As an illustration, suspensions in New York City have dropped by more than 50 percent since 2011.

Yet inequities remain. Racial disparities persist, as students of color are suspended and arrested in schools at higher rates and districts continue to invest in policing rather than needed services. New York City data indicate, for example, that the number of school safety agents and officers working in schools outnumber school counselors and social workers combined. These schools continue to have heavy policing, tense environments, issues of police harassment of female students, and difficulty in hiring counselors and social workers. Sullivan-Yuknis stressed the need for policies that limit police-student involvement to cases of serious crimes and relegate less-serious incidents – disruptive behavior, lateness, truancy, and fighting – to school staff.

## Resources

- “Counselors Not Cops Platform and Resource Guide” (September 2016), resources and recommendations developed by the national Dignity in Schools Campaign <https://dignityinschools.org/resources/a-resource-guide-of-faqs-data-and-supplemental-information-on-counselors-not-cops/>
- Model School Policies to Fight Criminalization, recommendations developed by the Dignity in Schools Campaign <https://dignityinschools.org/take-action/model-school-code/>

## Take Action

Consider your school district. Would safety there be enhanced by decreasing the number of school-based officers, who are likely to lead to unnecessary student referrals to the criminal justice system, and investing instead in sorely needed support services?

# 2. Student Contact with Police: The Collateral Consequences

## Rhonda McKitten

Stoneleigh Fellow and Youth Policy and Training Specialist, Philadelphia Police Department; former Juvenile Public Defender

### Summary

Contact between students and police can have long-lasting negative consequences. Both adjudications of delinquency (the juvenile justice system equivalent of an adult conviction) and convictions for more minor infractions (known as summary offenses or citations) can follow an individual throughout adulthood. They can have an impact on a youth's ability to join the military, pursue higher education, obtain housing, or secure employment. These consequences disproportionately harm youth who already are most at risk, such as youth of color, students with disabilities, or those who are lesbian, gay, bisexual, or transgender.

### Details

Students enter the justice system in one of two ways: by being arrested and placed in the juvenile justice system or by receiving a summary citation in adult court, usually without being arrested. **The impact of a child's involvement with the justice system can be far greater than a sentence imposed by a court.** The legal consequences of being placed on these pathways are not well understood by the public, including school officials.

Administrators and teachers should be informed about the impact that student contact with the justice system can have on students' short- and long-term opportunities. That way, school officials can make decisions about how to discipline students while protecting school safety, the well-being of students at large, and the interests of the student who is subject to discipline, and minimizing young people's contact with the justice system.

The harms of having schools use the justice system as disciplinarian are best illustrated by Pennsylvania's "[kids for cash](#)" scandal. Between 2003 and 2008 in Luzerne County, about 2,500 young people were removed from school, adjudicated delinquent for minor offenses, and detained in privately run facilities. Two judges were convicted of receiving payments in connection with the detention centers' construction and operations. The minor violations that led to the arrests of most of the youth in these cases were tied to "zero tolerance" policies.

Pennsylvania's Interbranch Commission on Juvenile Justice, which was set up by the state legislature to examine the lessons of this scandal and make recommendations to legislators about needed reforms, concluded in its 2010 report that: "[S]chool referrals made under zero-tolerance policies were integral to the overall scheme as they provided an easy removal of children from their homes and schools and a constant stream of children to be placed into detention. The commission believes that zero tolerance and allowing schools to use the justice system as [a] school disciplinarian [are practices that have] no place in the educational process or in the juvenile court system" (see pages 58-59 of the [commission's report](#)).

## Juvenile Adjudication

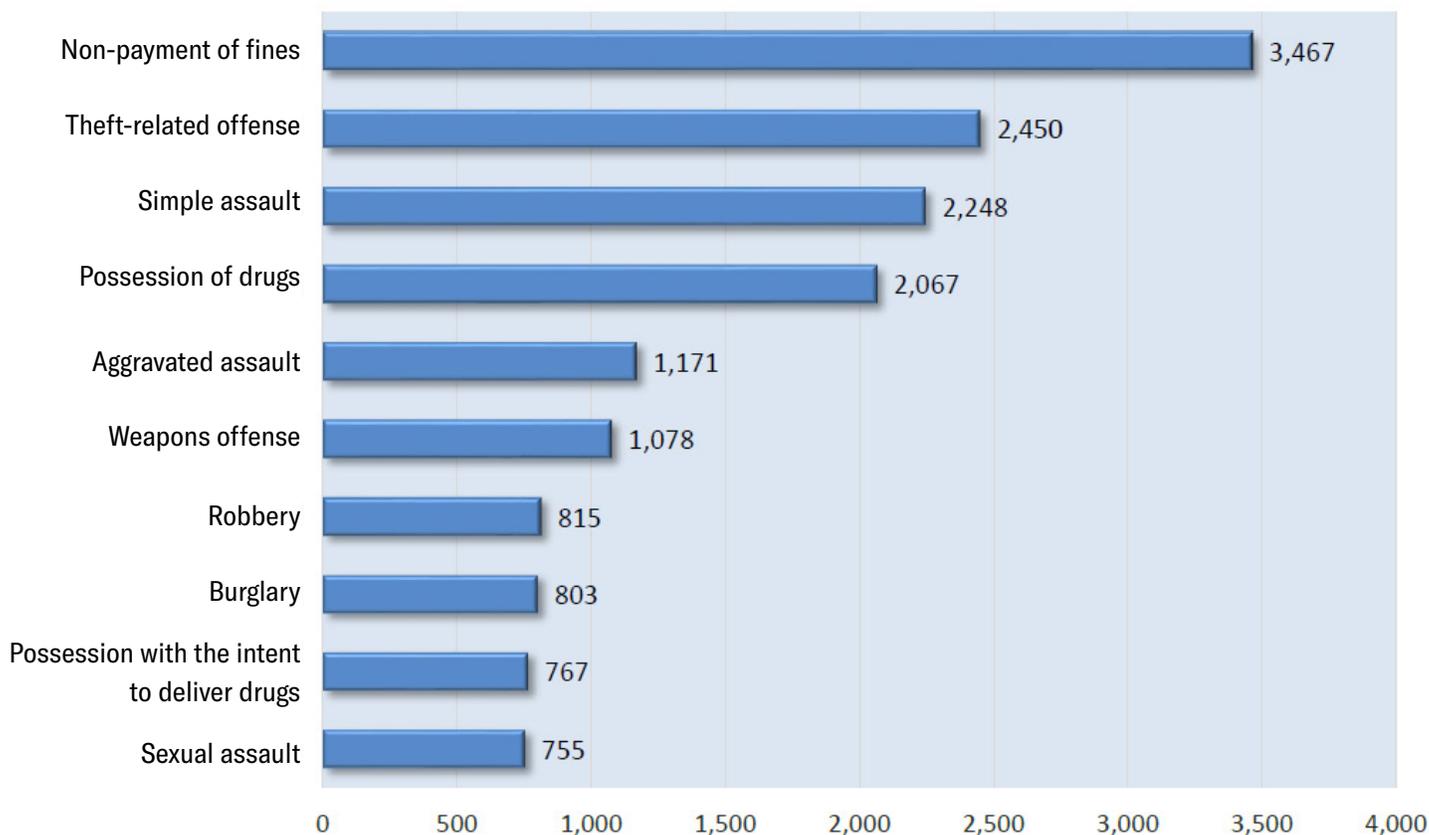
In most cases, a school-related arrest results in a referral to the juvenile justice system. Once a case is referred to the juvenile system, juvenile probation officers or prosecutors will make a decision about whether to charge the student with a delinquent offense (an offense that would be considered a crime for an adult).

Although juvenile adjudications are not adult criminal convictions, this distinction is lost when the record of an offense appears on a background check or is disclosed on an application. Few states hold all juvenile records confidential. Also, when youths reach the age of 14, their records are open to the public (for all felonies and some misdemeanors). Once public, the damage can be far-reaching. Anyone can access it and use it as a reason to deny opportunities to the person.

Although juvenile adjudications do not prevent a person from voting or from serving on a jury, they can affect a youth's life in many other ways. Sometimes schools or housing authorities are notified of a youth's juvenile court involvement or young people must disclose their records on an application or in an interview. The school or college, landlord or housing provider, state licensing entity, or employer can then use that information to deny the youth education, employment, or housing.

## Offenses Referred to Juvenile Court in Pennsylvania

Most Frequent Alleged Offense Categories, 2017



## **Here are some potential consequences of juvenile adjudications:**

- Where employers ask about a criminal record, juvenile adjudications can appear in subsequent background checks. A young person can run into this problem even in jurisdictions, [like Philadelphia](#), that have “Ban the Box” ordinances. Although such laws make it illegal for most employers to ask about an applicant’s criminal background on job applications or in an interview, the ordinances apply only to the first level of the hiring process. Potential employers are permitted to do criminal records background checks and inquire about past arrests, convictions, or adjudications later in the hiring process.
- They can make it difficult or impossible to obtain professional licenses for certain occupations.
- Families can lose housing because of a student arrest.
- They can affect military recruitment on a case-by-case basis, depending on the branch.
- For certain offenses, including possession of drugs, adjudications can result in deportation for non-citizens.
- Driving privileges and licenses can be lost or suspended for 90 days to one year.
- They are considered when determining adult sentencing and can result in longer sentences.
- DNA samples are taken from all youth who are adjudicated delinquent of felony offenses or misdemeanors of the first degree, as well as certain misdemeanors of the second degree, including simple assault, theft, and some other charges. The sample is kept even if a record is expunged.
- Youth who are adjudicated delinquent – and even those who are diverted – have to pay court fees and sometimes restitution.

## **Summary Citations: Minor Offenses with Major Consequences**

Another way that young people touch the justice system is by being issued summary citations, which appear to be like tickets. Summary charges for Pennsylvania youth far outnumber juvenile delinquency petitions, and many young people incorrectly think that they are no big deal. However, these “tickets” order young people to appear before magistrates in adult court. These minor offenses, such as disorderly conduct, possession of alcohol, or vaping, can sometimes have major or lasting consequences.

Summary citations are adult criminal offenses, regardless of age, even though a minor cannot be jailed for a summary offense. (Unpaid fines, however, can result in a warrant.) Unlike juvenile adjudications, summary convictions must be disclosed by young people if they are asked on a job or college application.

During summary trials, youth have no right to a lawyer (i.e. youth are not provided with a free attorney). If the young person does not appear in court, the magistrate may issue a bench warrant or could hold the trial in absentia, which could result in an adult conviction even without the child’s presence. A summary bench warrant for failing to appear could lead to an arrest if the young person is stopped for something else.

A summary conviction can be appealed, but most young people do not understand how to challenge an unfair conviction, especially if they don’t have a lawyer to explain the process and file the appeal. Youth who fail to comply with the summary adult sentence can be sent to juvenile court, where they can be placed on probation or in juvenile facilities as a part of a delinquency petition.

# What Happens to a Young Person's Records After an Incident at School?

The records of young people regarding school-related incidents tend to affect their lives longer than most members of the public might imagine. The vast majority of states make at least some juvenile law enforcement and court records available to the public, and many juvenile records can be shared with schools, law enforcement, employers, and others who want to know. In Pennsylvania, the records of involvement with the justice system do not automatically go away. They must be “sealed” or “expunged.”

The key difference between expunging a person's criminal record and sealing it is that **a sealed record still exists** in both a legal and physical sense, while **expungement results in the deletion of any record that an arrest or criminal charge ever occurred**. Records won't be sealed unless all fines and fees are fully paid.

## Juvenile Records

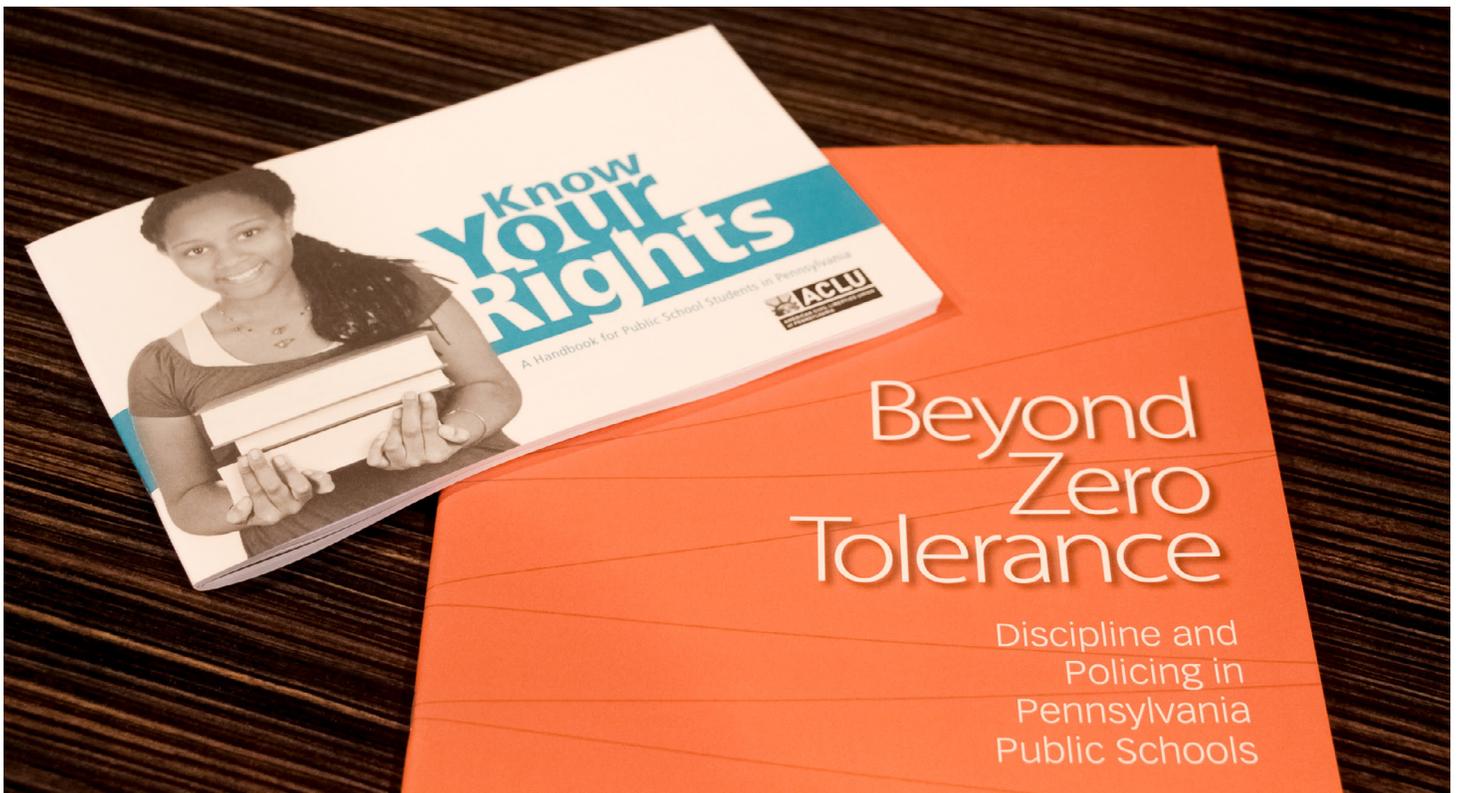
Juvenile adjudications are not automatically expunged at age 18 or 21. To expunge a record, a motion must be filed with the court, usually by an attorney. These records of adjudication cannot be erased until five years after a youth has been adjudicated delinquent (if all conditions have been met), six months after successful diversion, or immediately if found not guilty. However, even when a record is expunged, there is no guarantee that private organizations (criminal background check companies) will then erase juvenile records. In addition, DNA samples are kept by police even when a record is expunged.

## Summary Offense Records

If a student under 18 is found guilty of a summary offense, records of the conviction are not open to the public – they are sealed. The **Pennsylvania Clean Slate Law**, which goes into effect in 2020, will seal summary convictions after 10 years if the person has a clean record. When sealed, the record is not viewable by the general public, but it will still be available to police and other law enforcement agencies. A student also will still have to disclose any unexpunged summary convictions if asked about convictions on a school or job application, including applications to join the military.

## Resources

- “Students and the Justice System: Collateral Consequences” (July 2019), an overview for the School Policing Summit by the ACLU of Pennsylvania  
[https://drive.google.com/file/d/1U\\_rBQ0d96-9MupB\\_VczuSIIdofctIYEi/view](https://drive.google.com/file/d/1U_rBQ0d96-9MupB_VczuSIIdofctIYEi/view)
- “Student Citations at Lancaster County Public Schools Can Have Lasting Consequences” (April 8, 2019), lancasteronline.com news article  
[https://lancasteronline.com/news/local/student-citations-at-lancaster-county-public-schools-can-have-lasting/article\\_3345895c-57e1-11e9-a0dd-bfde9921829a.html](https://lancasteronline.com/news/local/student-citations-at-lancaster-county-public-schools-can-have-lasting/article_3345895c-57e1-11e9-a0dd-bfde9921829a.html)
- “The Pennsylvania Juvenile Collateral Consequences Checklist,” from the Pennsylvania Juvenile Indigent Defense Action Network  
<http://www.pacourts.us/assets/files/setting-1748/file-1538.pdf?cb=a0f4c7>
- Background information from Juvenile Law Center about Luzerne County “kids for cash” scandal  
<https://jlc.org/luzerne-kids-cash-scandal/>
- Report from the Pennsylvania’s Interbranch Commission on Juvenile Justice (May 2010), which examined the kids for cash scandal and made recommendations for reform  
<http://www.pacourts.us/assets/files/setting-2032/file-730.pdf?cb=4beb87>
- Text of the Pennsylvania Clean Slate Law  
<https://www.legis.state.pa.us/cfdocs/Legis/LI/uconsCheck.cfm?txtType=HTM&yr=2018&sessInd=0&smthLwInd=0&act=56>



*The ACLU of Pennsylvania has long advocated for the rights of students and families.*

# 3. Student Arrests: Statewide Trends

## Harold Jordan

Senior Policy Advocate, American Civil Liberties Union of Pennsylvania

### Summary

Over the last 25 years, there has been an increase in both student arrest rates and the presence of police in schools. School officials need to grapple with this increase in school-related student arrests, which came at a time when overall juvenile arrest rates declined. In particular, Pennsylvania has had one of the highest student arrest rates in the country for most of the last decade. **School administrators should seek to learn what is behind the increase in student arrests.**

The first step for school leaders is to look at the data. Although existing data have limitations, school districts should be looking at and analyzing their own schools' data.

### Details

Relevant data are available from many sources. Using data effectively has challenges and limitations, such as significant problems with under-reporting and inconsistent reporting, as well as major and minor incidents being reported together. However, it is still possible and highly beneficial to analyze data for each school district.

#### Jordan identified several Pennsylvania trends:

- **Generally, student arrests are under-reported.** This becomes evident only when comparing multiple data sets. It raises a concern about whether the consequences of police-administered school discipline are being tracked by educators.
- Although Pennsylvania is not high on the list of states that have cops and no counselors in schools, **there is a severe shortage of counselors, school psychologists, social workers, and nurses in Pennsylvania public schools.** Additionally, these staff are distributed unevenly within a city or district. Schools serving students with the greatest needs are especially under-resourced.
- **Pennsylvania has relatively high student arrest and suspension rates compared to other states.** The data show that the youth most likely to be suspended or arrested are Black boys who have a disability. However, arrest rates for Black girls are also disproportionately high (five times the rate of White girls).
- **Although suspension rates came down between the 2013-14 and 2015-16 school years, arrest rates went up.** Disproportionality by race and disability has remained high in both school-administered exclusionary discipline and arrests (see fact sheet on page 21).

## Take Action

School and district leaders can use these helpful resources to examine data from their own schools and then act upon what they find out.

**This first group of resources offers more general guidance to the process of data collection and analysis.**

- “Analyzing Student-Level Disciplinary Data: A Guide for Districts” (March 2017) from the National Center for Education Evaluation & Regional Assistance  
<https://ies.ed.gov/ncee/edlabs/projects/project.asp?projectID=4470>
- “Addressing the Root Causes of Disparities in School Discipline: An Educator’s Action Planning Guide” (July 2015) from the National Center for Safe Supportive Learning Environments  
<https://safesupportivelearning.ed.gov/sites/default/files/15-1547%20NCSSLE%20Root%20Causes%20Guide%20FINAL02%20mb.pdf>
- “Using Data,” a comprehensive set of resources about obtaining and making sense of data, from the ACLU of Pennsylvania  
<https://www.endzerotolerance.org/data>

**The table on the following page provides links to the data sources themselves and additional information about many of them.**



*Harold Jordan (left) of ACLU-PA spoke about student arrests and formal agreements with police.*

## Where to Find Data About Your District

Data Source and URL	Description	Drawbacks
<b>Safe Schools Online</b> <a href="http://www.education.pa.gov/Schools/safeschools/datareports/Pages/default.aspx">www.education.pa.gov/Schools/safeschools/datareports/Pages/default.aspx</a>	Incident and punishment data are reported annually to the <b>Pennsylvania Department of Education</b> .	Data are not disaggregated in a way that permits in-depth analysis of intersectional trends, e.g. by race, gender, disability, etc.
<b>Civil Rights Data Collection</b> <a href="http://ocrdata.ed.gov/">ocrdata.ed.gov/</a>	Discipline data are reported to the <b>U.S. Department of Education</b> . These data are disaggregated in useful ways, by race, gender, disability, and English Language Learner.	Data are collected every other year, and it can take several years after the completion of the school year to be publicly reported.
<b>Special education data</b> <a href="https://penndata.hbg.psu.edu/Public-Reporting/Data-at-a-Glance">https://penndata.hbg.psu.edu/Public-Reporting/Data-at-a-Glance</a>	Reported annually to the <b>Pennsylvania Department of Education</b> and the <b>U.S. Department of Education</b> .	Reports aggregate numbers of suspensions and expulsions, but <b>not</b> student arrests.
<b>Juvenile justice system data</b> (Availability is county-specific)*	Data allows you to track what happens to young people once they are arrested.	Data sets are typically not organized in a way that allows one to track trends by school or district, and they do not include information about disability status.
<b>Adult court system data for young people receiving summary citations</b> (Administrative Office of Pennsylvania Courts)	When young people receive summary citations and appear before a magistrate in adult court, the court data system for adults can be used to track fines and fees issued to youth.	Data on the disposition of summary citations issued to youth are not publicly available. In the best-case scenario, some overview numbers may be obtainable in response to a public records act request.
<b>State Police Department data</b> <a href="https://www.paucrs.pa.gov/UCR/ComMain.asp">https://www.paucrs.pa.gov/UCR/ComMain.asp</a>	A handful of <b>Pennsylvania school districts</b> report student arrest data to the State Police for the <b>Pennsylvania Uniform Crime Reporting System</b> .	Data are not reported by school district for most of the state.
<b>Local police department data</b>	Probably the most robust data set about student arrests.	Normally requires a public records request in order to obtain data that enables you to track the pathway from specific schools or districts. However, districts with their own school police departments may be able to obtain local police data through their departments.

\* Allegheny County posts this helpful interactive dashboard, which displays where juvenile offenses occurred in the county, information about the offenses, and the age, gender, and race of those involved in the incidents.  
<https://www.alleghenycountyanalytics.us/index.php/2017/09/25/juvenile-offense-trends-interactive-dashboard/>

# SUPPORTING PENNSYLVANIA STUDENTS: THE CHOICE

## Our schools are understaffed with key student support resources

- 23% of Pennsylvania public school students attend schools with police but lack either a nurse, psychologist, social worker, or counselor
- 90% of Pennsylvania public school students attend schools without enough counselors

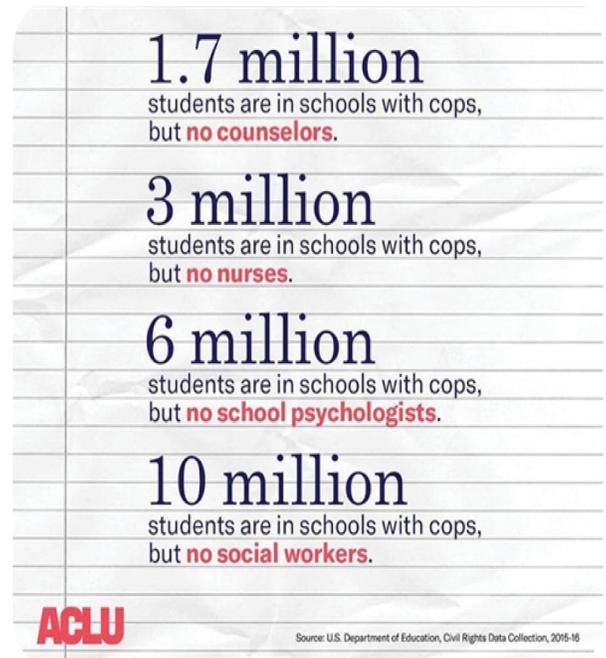
### Recommendations for School Support Staff (2016 - 2017)

vs.

Pennsylvania Reality	Recommended Ratio	PA Reality
Counselors	250 : 1	387 : 1
Psychologists	500 - 700 : 1	1,164 : 1
Nurses	750 : 1	809 : 1
Social Workers	250 : 1	2,285 : 1

Data Source: Governor Wolf's 2018 School Safety Task Force Report.

### In the United States:



## Student Arrest Rates

- Pennsylvania had the **third highest student arrest rate** in the nation and saw a 24% increase in student arrests between 2013-2014 and 2015-2016

### Compared to the rest of the country, Pennsylvania ranks:

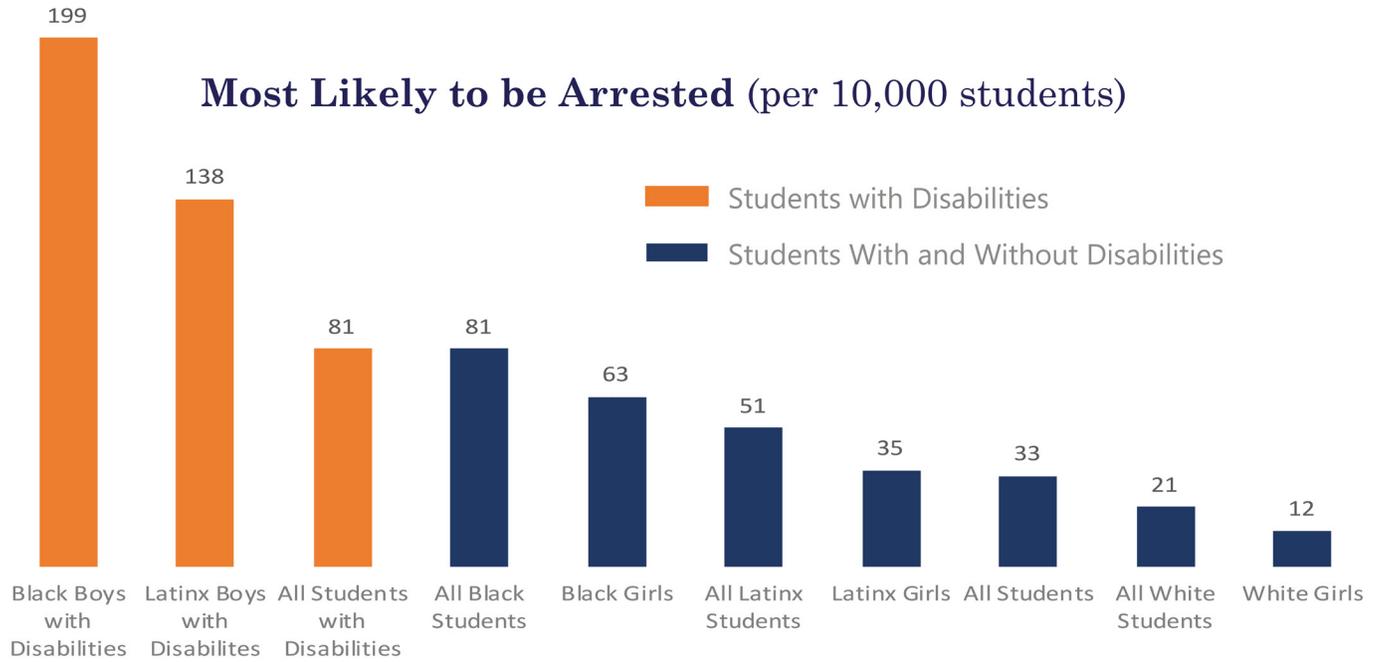
**3rd** for Latinx girls student arrests

**2nd** for Latinx student arrests

**2nd** for Black student arrests

**3rd** for disabled student arrests

## Who is most affected in Pennsylvania?



## SPOTLIGHT: Black Girls and Arrests

**Nationally,**  
Black girls are 4x more likely to be arrested in schools than White girls

**In Pennsylvania,**  
Black girls are 5x more likely to be arrested in schools than White girls



All data provided by U.S. Department of Education, 2015-2016 Civil Rights Data Collection (CRDC)

### See ACLU Report:

*Cops and No Counselors: How the Lack of School Mental Health Staff is Harming Students*

[www.aclu.org/copsandnocounselors](http://www.aclu.org/copsandnocounselors)

For more information, go to [endzerotolerance.org](http://endzerotolerance.org)

**ACLU**  
Pennsylvania

# 4. Reforming Officers' Role in Schools: A Case Study of Spokane, Washington

## **Vanessa Torres Hernandez**

**Director of Advocacy, Northwest Justice Project; former Youth Policy Director, American Civil Liberties Union of Washington**

### **Summary**

The Spokane community and its school district, which is the second largest in Washington state, have been working to reform school policing over the last four years. The reform effort began in response to concerning trends reflected in state and federal data, individual incidents, and efforts at the state and local level to improve disciplinary practices and policing.

### **Details**

The school district in Spokane has 30,000 students, and 25% of them are students of color. The district employs school district police, who are unarmed but have full power to arrest.

Spokane had the highest rate of arrests and referrals for students in the state, and the rates were disproportionately high for students of color and students with disabilities, according to data published by the U.S. Department of Education.

A few years before, the school district had launched an initiative to improve graduation rates and address disparities in graduation rates. It commissioned a study to evaluate predictors or indicators of failure to graduate. School discipline was among the top indicators. This finding prompted the district's efforts to rethink how it addresses discipline, school exclusion (by out-of-school suspensions and expulsions), and police-student interactions.

The city of Spokane was itself in the middle of a reform movement around the use of force because there were several high-profile incidents of excessive force against people of color. In 2012, the city asked the U.S. Department of Justice for a road map to reforms.

Additionally, several school incidents spurred community pressure.

A 13-year-old was told to go sit outside in January in the cold because of a comment he made to a teacher, but refused to leave. A resource officer was called and engaged the student physically; the boy was handcuffed, removed from school, and charged with disturbing school.

Similarly, a 12-year-old boy who went to the back of a school to use a Port-A-Potty was handcuffed, marched through the halls of the school, and charged with trespass. He had gone to the elementary school to pick up his little sister.

Both charges were eventually dropped, but many members of the community were outraged by excessive involvement of a police officer in matters best handled by school staff.

In Spokane, the policy goals for interactions between school security staff and students are to:

- Maintain a safe learning environment.
- Reduce student arrests.
- Develop and sustain positive relationships with students, staff, and community.
- Identify and communicate with building administrators the behaviors and incidents that should result in restorative practices and corrective action.
- Identify the criminal offenses that typically result in arrest.

## Issues When Defining Officers' Role

- » What resources should educators use to respond to behavioral incidents before calling an officer?
- » How will calls for service be tracked and reported?
- » What incidents will an officer not respond to?
- » What types of incidents will not result in arrest or referral for prosecution?
- » Is there any review of arrests, referrals, and calls for service? By whom?
- » Is there reporting of arrests, referrals, and calls for service? To whom?

Under the new policy, the general presumption is that arrests will only be made for felony offenses. Arrests for misdemeanors should occur only when approved by the campus safety officer's supervisor, after consideration of the full circumstances.

The [policy](#) makes exceptions for assault (unprovoked or on a staff member), reckless burning, trespass, failure to disperse, weapons, or interfering with arrest by force and violence.

The Spokane data indicated that 30% of calls to police from schools were to behavioral intervention classrooms that are primarily for students with disabilities. Police stated that they were called to use skills from de-escalation training that teachers had not received. However, police officers should not be first responders for such behavior.

The new Spokane policies do not permit the use of force “except when there is a real and immediate threat of serious bodily injury to students, school staff, or the officer.” Instead, they state, “the first course of action should be application of specific intervention strategies designed to defuse situations by addressing student’s emotional needs and de-escalating immediate behavior.” Below are the limits on force that the policies spell out.

### Considerations in limiting use of force

- RCW 28A.600.045: Restraint or isolation of any student is permitted only when **reasonably necessary to control spontaneous behavior that poses an imminent likelihood of serious harm.**
- Limiting availability of certain types of force
- Expectations for de-escalation
- Medical care and assistance
- Documenting use of force, review by supervisors

The policies direct officers, if time and circumstances permit, to distinguish between lack of compliance and an inability to comply based on several factors, such as medical condition, disability, or drug interaction.

Officers, both new and experienced, are to be trained in de-escalation, restorative practices, and trauma. Community-based partners with specific expertise (such as working with autistic youth, LGBT youth, etc.) are to be brought in to educate the officers.

## **Data Collection and Reporting**

- » What data should school districts collect?
  - Calls for service (both campus police and external police) – type of incident, related offense, resolutions.
  - Arrest and referral – includes warrants and officer-initiated arrests.
  - Use of force.
  - Data disaggregation: race, gender, age, disability, program, foster youth status, school.
- » How should the data be reviewed and reported?
  - Review by police supervisors and educators.
  - School review.
  - Report to school board and the public.

## **Community Engagement**

Typically, there is little community engagement when decisions are being made about school policing. This exclusion of community voices can have harmful impacts on students and their families and can send a message to the larger community that the students need to be policed. Police are often placed in schools that are predominantly Black and low income, which raises equity concerns.

In order to engage the community, school districts should consider setting up a working group, establishing standing school board agenda items, creating a community team project, and involving the community in the hiring and review of school officers.

## **Other Issues**

Spokane is also addressing issues regarding searches and privacy.

- » Search, seizure, and arrest:
  - There should be limits on their uses.
  - Students need to be educated about their rights.
- » Privacy and access to school records:
  - Schools should exercise caution about sharing what is in a student's record.
  - Schools should limit who has access to a student's records, an issue that is of particular concern to immigrant students.

In Seattle, Washington's largest district, school police are unarmed and not in uniform. Officers are trained to avoid arrest or physical contact with students. The budget for school police comes from the city, not the school district. Additionally, the officers are part of a larger city strategy to address youth violence and are integrated with community-based programs.

## FAQs

**Q: Does the state of Washington have policies regarding officers in schools?**

**A:** There is no state policy in Washington. Almost all districts have some agreement (typically a Memorandum of Understanding) with law enforcement, but the detail in them is often lacking about the day-to-day interactions between law enforcement and students. Some districts have no MOU or policy to govern the role of police.

**Q: In some Pennsylvania districts, school police are not armed with firearms, but some have pushed for school police to be armed. How has Spokane dealt with that issue?**

**A:** There is legitimate concern among the parents and community groups that we work with that the presence of a gun on a daily basis could escalate the use of force. In Spokane, schools are located close to police departments, which enables a quick response to the school in the event of an emergency.

A fair amount of research into school shootings has indicated that in a significant number of schools where shootings occurred, an armed officer was on campus and that did not prevent or, in most instances, end an incident. We hope that schools invest in preventing incidents of violence as the primary way to keep students safe. Once an officer brings a gun to a school campus, we've already missed opportunities to keep incidents from escalating.

## Resources

- “Why School Policing Reform Matters” (June 5, 2017), a blog post by Vanessa Torres Hernandez  
<https://www.endzerotolerance.org/single-post/2017/06/05/%E2%80%9CIt%E2%80%99s-Like-They%E2%80%99ve-Already-Pre-judged-Me-as-a-Criminal%E2%80%9D-Why-School-Police-Reform-Matters>
- *Students Not Suspects: The Need to Reform School Policing in Washington State* (2017), a report from ACLU of Washington  
<https://www.aclu-wa.org/docs/students-not-suspects-need-reform-school-policing-washington-state>
- Sample best practice policies on policing, assembled by the ACLU of Pennsylvania  
<https://www.endzerotolerance.org/police-in-schools-policy-reforms>
- District and Campus Safety Procedures for Spokane Public Schools  
<https://weba.spokaneschools.org/PolPro/View.aspx?id=767>

# Implicit Bias, Discipline, and School Policing

**Ajmel Quereshi**

Senior Counsel, NAACP Legal Defense and Educational Fund (LDF)

Quereshi, co-author of a 2017 LDF report called *Locked Out of the Classroom: How Implicit Bias Contributes to Disparities in School Discipline*, reviewed research indicating that implicit bias and racial anxiety play significant roles in the consistent racial disparities indicated by school discipline data. *Implicit bias* refers to unconscious learned biases and attitudes that individuals hold due to socialization; *racial anxiety* refers to the heightened stress and emotion that people experience when interacting with people of other races.

Quereshi noted that, in addition to anti-bias training and education, three strategies have had significant impact on reducing implicit bias:

- Teacher use of wise feedback rather than punitive discipline. *Wise feedback* is feedback that sets high standards for students, but assures them that they can meet those standards. (Example: “I’m giving you these comments on your assignment because I have very high expectations and I know you can reach them.”)
- Strategies to build social belonging as students move to new school environments.
- “Empathetic discipline” that attempts to understand perceived misbehavior from the student’s perspective.

Combined with policies that limit police referrals and prevent school exclusion (suspensions and expulsion), these strategies will result in improved school climate and a reduction in racial disparities in school discipline and arrests.

## Resource

*Locked Out of the Classroom: How Implicit Bias Contributes to Disparities in School Discipline* (2017) [https://www.naacpldf.org/files/about-us/Bias\\_Reportv2017\\_30\\_11\\_FINAL.pdf](https://www.naacpldf.org/files/about-us/Bias_Reportv2017_30_11_FINAL.pdf)

# 5. Students with Disabilities & Police: Best Practices

**Susan Mizner**  
Director, Disability Rights Project,  
American Civil Liberties Union

## Summary

When police are in schools and they are used to enforce discipline issues, we see significant disproportionality in the higher arrest rates of youth of color and youth with disabilities. This number increases drastically when considering Black students with disabilities.

## Details

Disability, poverty, and trauma are commonly interwoven experiences. Because disability often leads to unemployment, it leads to poverty; because poverty is highly associated with over-policing, unstable housing, and poor health care, poverty can lead to both trauma and disability.

In K-12 schools in the United States, students with disabilities are 2.9 times more likely to be referred to police than students without disabilities; Black boys are 2.5 times more likely to be referred; and Black boys with disabilities are five times more likely to be referred. In elementary schools (K-6), students with disabilities are 3.6 times more likely to be referred, while Black boys with disabilities are 8.6 times more likely.

Arrest numbers are similar. Black boys with disabilities are 12 times more likely to be arrested in elementary schools. Overall, Black boys with disabilities are 29.9 times more likely to be arrested than White boys without disabilities.



Talila Lewis

There are tens of thousands of instances of handcuffing children every year. In one [case](#), which was particularly unusual because it was videotaped, an 8-year-old Kentucky boy, diagnosed with PTSD after the arrest and deportation of his father when the child was 6, was placed in handcuffs. In response, the ACLU filed a [lawsuit](#) due to the painful and unconstitutional handcuffing of elementary school students with disabilities.

## Types of Disabilities

Here are the disabilities that are most common among children, as a percentage of all children:

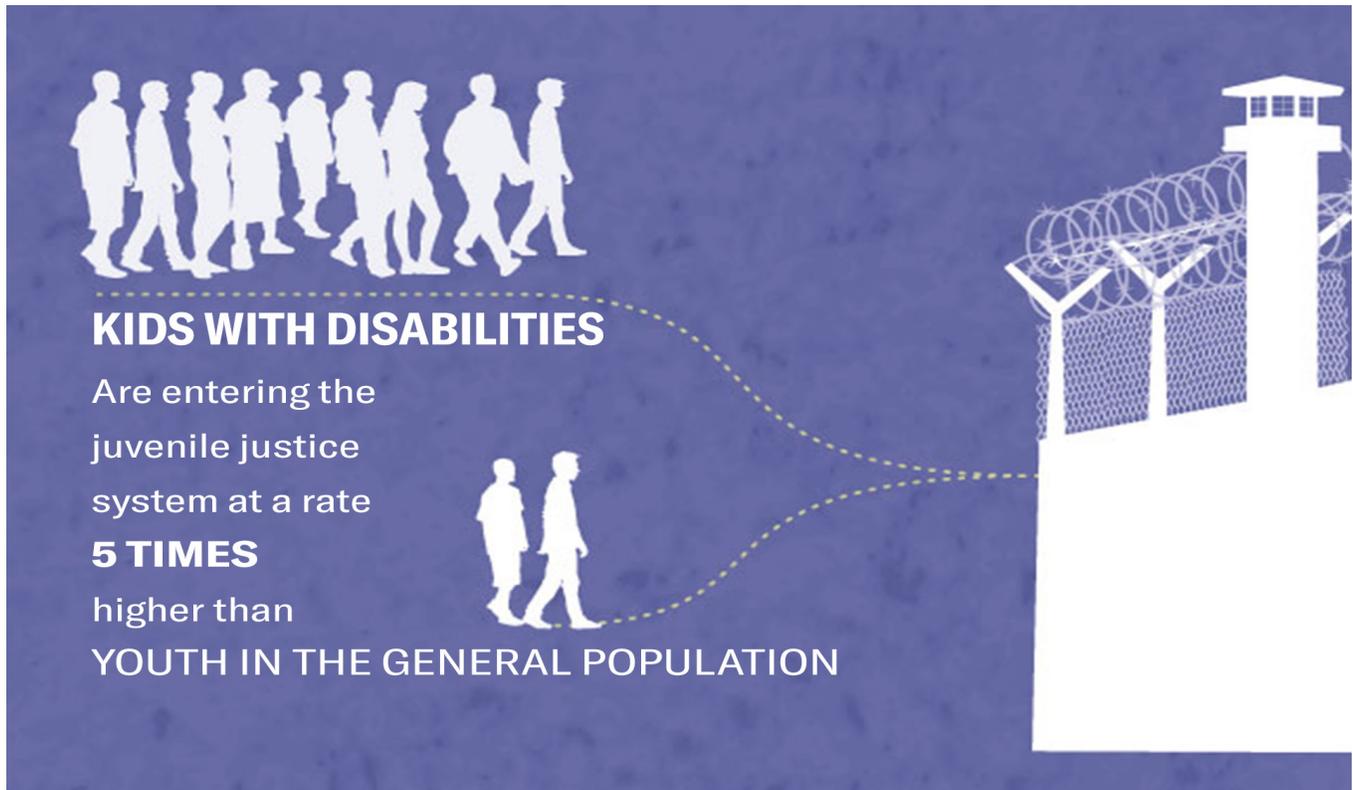
- Post-traumatic stress disorder: 5%-15%
- Attention deficit hyperactivity disorder: 4.4%-6.4%
- Specific learning disabilities: 4%-6%
- Cognitive disabilities: 4.2%
- Autism: up to 1.7%
- Vision: 0.8%-0.9%
- Hearing: 0.6%
- Mobility disabilities: 0.6%
- Cerebral palsy: 0.4%

**ACLU**

**Note:** This list of disabilities was created using the classification system of the Americans with Disabilities Act (ADA). Under the Individuals with Disabilities Education Act (IDEA), by contrast, PTSD, ADHD, and other psychiatric disorders would be classified under the category of “emotional disturbance.” For more information on the IDEA’s classifications of disabilities, see the [IDEA website](#).

In this case, the deputy sheriff had locked the handcuffs around the child’s biceps, forcing his arms behind his back. In 2018, the responsible sheriff’s office in Kentucky agreed to pay more than \$337,000 for the painful and unconstitutional handcuffing of elementary school students with disabilities.

In Flint, Michigan, where high levels of lead in the water affect children’s intellectual development, leading to disability, a 7-year-old boy diagnosed with ADHD was placed in handcuffs for more than an hour. The child had been running around with “extra energy” in his after-school program. Flint police in elementary schools report spending only 12% of their time doing law enforcement work and 88% of their time on non-police work.



Website: <https://www.colorlines.com/content/infographic-disability-criminality>

## Solutions – Best Practices

**Guidelines for Police Activity:** The first question for any school district that is considering working with law enforcement is whether paying for officers is the best use of available resources. Many schools do not have sufficient numbers of student counselors, tutors, nurses, social workers, and psychologists to meet the needs of their students. Especially in elementary schools or schools in the poorest districts, directing funding toward staff who can support students may do as much as, or more than, police can do to improve the school climate.

When drafting a Memorandum of Understanding (MOU) with law enforcement, it is helpful to begin with the guiding principles. That will help all parties keep their eyes on the ultimate goal of an educational experience that allows students to grow, thrive, and become their best selves.

The MOU should be tailored to the age of the children in the school. Police intervention in high schools should look very different from police intervention in elementary schools. Elementary school students are particularly young and impressionable – and essentially incapable of having

criminal intent. The MOU should set a very high bar for when elementary school staff would call in an officer.

The suggested standard, as in this [sample MOU](#) distributed at the school policing summit, is one in which there is “an explicit, serious, and urgent threat to the community, such as a bomb threat, or a threat from an active shooter on the school campus.”

When an elementary school does engage police, the memorandum should specify that they can patrol the perimeter of the school to protect the students from external threats. But they should not patrol halls inside the school, because it is far too easy for them to get pulled into dealing with students’ behavior even when it is not a criminal issue.

**Interactions with Students with Disabilities:** Where police are working in schools, districts should have strong MOUs that clarify the roles of police and district staff when dealing with students with disabilities. Also, there should be a mechanism to ensure that what is shared with police are the strategies and the accommodations needed for the student, **not** the disability diagnosis. When issues arise involving students with disabilities, it is in everybody’s interest to try to understand why a student is behaving a certain way, rather than escalating the situation and immediately resorting to punishment.

**Family Educational Rights & Privacy Act of 1974 (FERPA) and Individualized Education Programs (IEPs):** Current law places strict limitations on the release of student records without the approval of a parent or guardian. An alternative to releasing confidential information is to use best practices, which work for people with and without a disability and benefit all. This process involves sharing what works best for each student, whether or not they have a disability, rather than sharing the diagnosis or medical information.

A concern with giving officers specific information on a student’s disability is that it can stigmatize the student, resulting in increased violence directed at that student because of implicit bias and a perception that he or she is dangerous.

## Federal Privacy Law on Sharing Student Records

Generally speaking, under the **federal Family Educational Rights & Privacy Act (FERPA)**, school officials cannot disclose the content of a student’s educational record to law enforcement without the consent of the parent or guardian, or the student (if they are 18 or older), with three exceptions:

- » **To protect the health or safety** of students or other individuals in emergency situations. This exception to FERPA’s consent requirement is limited to the period of the emergency and generally does not allow for a blanket release of personal information from a student’s record. Emergencies **do not include routine disciplinary matters**, but an actual, impending or imminent emergency such as a natural disaster, a terrorist attack, a campus shooting, or the outbreak of an epidemic.
- » When a court has approved a **court order or formal subpoena**.
- » When school-based law enforcement officers have been **designated as school officials** with legitimate educational interests. In this situation, law enforcement cannot then use or re-disclose to other law enforcement officers anything in a record for use in a law enforcement context, such as a prosecution.

– Harold Jordan

## FAQs

### **Q: What should a police officer know about a student with a disability?**

**A:** Because the rate of police interaction with students with disabilities is so high, officers in public schools should approach every encounter under the assumption that they are interacting with a student with a disability.

When specific accommodations are not known, the best rule of thumb for police interactions includes slowing down the communication and calmly interacting with students. Unless someone is at imminent risk of harm, time and patience do more than “command and control” approaches.

For students with specific needs, the correct approach is for the school to share tips about how to best work with the student, but not share the diagnosis. For example, officers might be informed that Sally doesn’t like to be touched. The officer doesn’t need to know why Sally doesn’t like to be touched – it could be because of a history of trauma and assault, or it could be because Sally is on the autism spectrum. The important information for the police is what they should do, not what private information they know about the student. Here are further examples:

“John doesn’t like it when you touch him.”

“Lakisha responds best when you ask how she is doing first.”

“Derrick gets very nervous around police officers.”

“Sarah responds best if you can offer her a juice first.”

### **Q: Should police be told about the child’s medical history or IEP, so they can make a decision about how to address the child? For example, a kid throws a chair and the question becomes, how does an officer physically respond?**

**A:** Officers do not need to know the child’s medical history in order to intervene. Police should never be called just because a child throws a chair. Officers should assume a disability exists and use de-escalation approaches to defuse the situation. If the officers are unable to do this, they should not be in schools. In Spokane, Washington, the policy is to start by using de-escalation.

## Resources

- ACLU’s lawsuit about handcuffing elementary school students with disabilities: *S.R., et al. v. Kenton County, Kentucky, Sheriff’s Office, et al.*  
<https://www.aclu.org/legal-document/sr-et-al-v-kenton-county-sheriffs-office-et-al-complaint>
- “Children Cruelly Handcuffed Win Big Settlement against the Police in Kentucky”  
<https://www.aclu.org/blog/disability-rights/disability-rights-and-education/children-cruelly-handcuffed-win-big>
- “Third Grader Handcuffed in School” (video) <https://youtu.be/72vu6nxZX58>
- “Sharing Student Information with Police: Balancing Student Rights with School Safety,” (2012), a paper by Lynn M. Daggett, presented at American Bar Association meeting.  
[https://www.americanbar.org/content/dam/aba/events/state\\_local\\_government/2012/10/2012\\_fall\\_councilmeeting/Daggett\\_Paper.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/events/state_local_government/2012/10/2012_fall_councilmeeting/Daggett_Paper.authcheckdam.pdf)

# Disability and Race: A Policy Response

**Kristen Harper**

Director of Policy Development, Child Trends

At the summit, Harper shared data that illustrate that **children of color and children with disabilities interface with police at significantly higher rates than non-disabled White students**. School officials are almost twice as likely to refer children of color with disabilities to law enforcement as White children with disabilities.

Harper underscored that schools often fail to provide the behavioral and social supports that children with disabilities need in order to be successful in school. Congress enacted the Individuals with Disabilities Education Act ([IDEA](#)) and [Section 504](#) of the Rehabilitation Act to provide protections and support for these students. Appropriate identification is critical in order for students to obtain necessary protections.

Harper cautioned that children of color are over-represented in some disability categories (such as emotional disturbance) and under-represented in others (such as autism). Schools should have ready a range of procedures to address frequent outbursts and discipline referrals, including assessments of educator practice and classroom environments and, if appropriate, referrals for evaluation. School officials must consistently consider whether behavior is a manifestation of a student disability and what services and supports might be necessary to teach, support, and reinforce appropriate behavior.

## Resources

- Letter of guidance on behavioral supports for students with disabilities (Aug. 1, 2016), U.S. Office of Special Education and Rehabilitative Services <https://sites.ed.gov/idea/files/dcl-on-pbis-in-ieps-08-01-2016.pdf>
- *Black Students and Students with Disabilities Remain More Likely to Receive Out-of-School Suspensions, Despite Overall Declines* (April 29, 2019), a report from Child Trends <https://www.childtrends.org/publications/black-students-disabilities-out-of-school-suspensions>



Kristen Harper spoke about disability and race at the January 2018 summit.

# 6. Reducing Student Arrests: Philadelphia's Diversion Program

## Kevin Bethel

Executive Director, Law Enforcement Juvenile Justice Institute; retired Philadelphia Deputy Commissioner of Police

### Summary

The Philadelphia Police School Diversion Program is a law enforcement-led initiative that created a pre-arrest diversion program. Eligibility for the program is determined while the student is at school, not after an arrest is made. In the first year of the program, arrest rates dropped more than 50%, and by year four, 71%.

### Details

After years of arresting children in schools in Philadelphia, Bethel realized that law enforcement could play a constructive role in changing the juvenile justice system.

Prior to 2014, the “broken window” theory of policing (in which minor offenses are punished aggressively) was being applied to schools. In Philadelphia, this resulted in public high school students going through metal detectors, the hiring of 350 security officers in schools, and 84 sworn officers working outside the schools. The zero-tolerance policies led to 1,600 kids in Philadelphia being arrested each year.

*Childhood trauma* is the experience by a child of an event that is emotionally painful or distressing, which often results in lasting mental and physical effects (e.g. separation from a parent or caregiver; violence at home, at school, or in the surrounding community; chaos or dysfunction in the house; physical abuse or neglect; emotional abuse or neglect; stress caused by poverty; sexual abuse; bullying/cyberbullying, etc.).

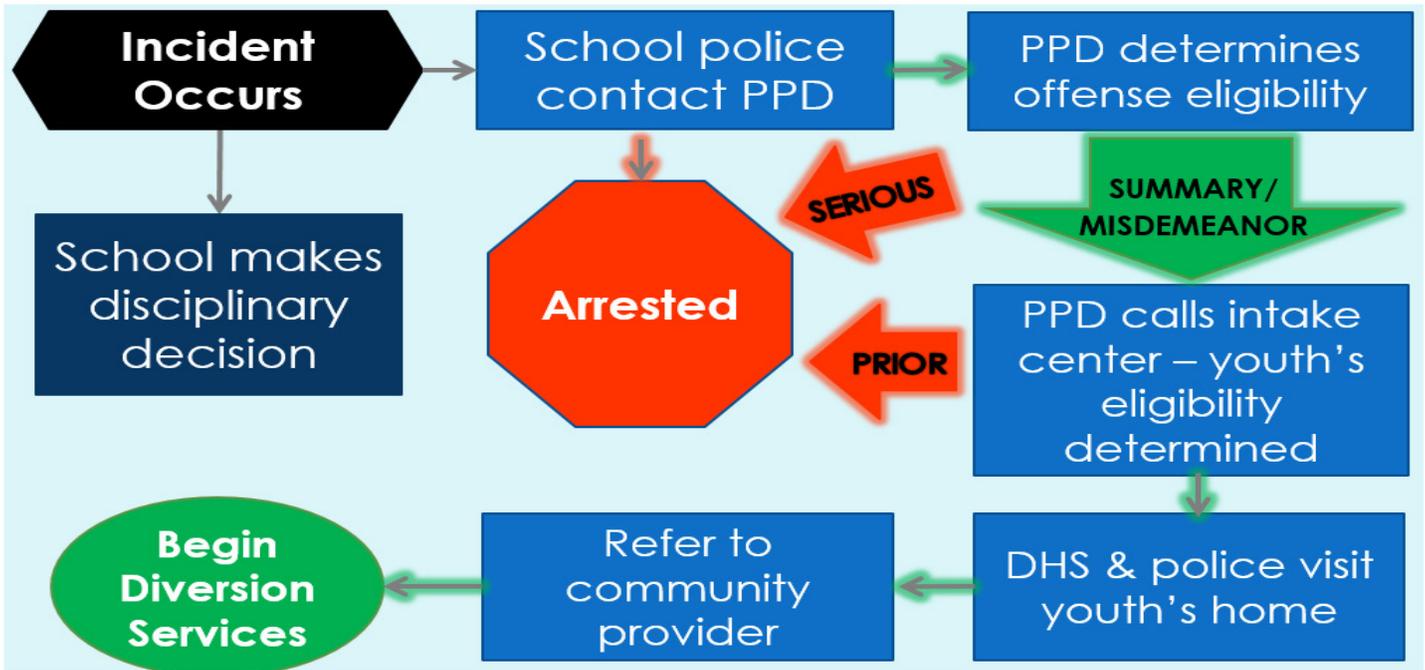
Bethel came to realize that childhood trauma can play a role in disciplinary issues.

The Philadelphia Police School Diversion Program is a pre-arrest diversion program, diverting kids at the point of contact. The program was created with several partners in the community.

The program's goals are to reduce arrests and racial disparities in arrest rates and increase school retention. When an incident occurs, school police contact a dedicated staff person at the Philadelphia Police Department (PPD). The PPD determines whether the offense is eligible for the program. If the offense is serious, the student is arrested; if it's a summary/misdemeanor, PPD calls an intake center and the youth's eligibility is determined. Youth with prior offenses are arrested. Diverted youth receive an initial home visit from the Department of Human Services (DHS) and police. They are then referred to the appropriate community provider for services.

The Police Department's partners on the diversion program have been Drexel University, the city Department of Human Services, the school district, family court, the District Attorney's Office, the public defender, behavioral health, community providers, and the Juvenile Detention Alternatives Initiative task force.

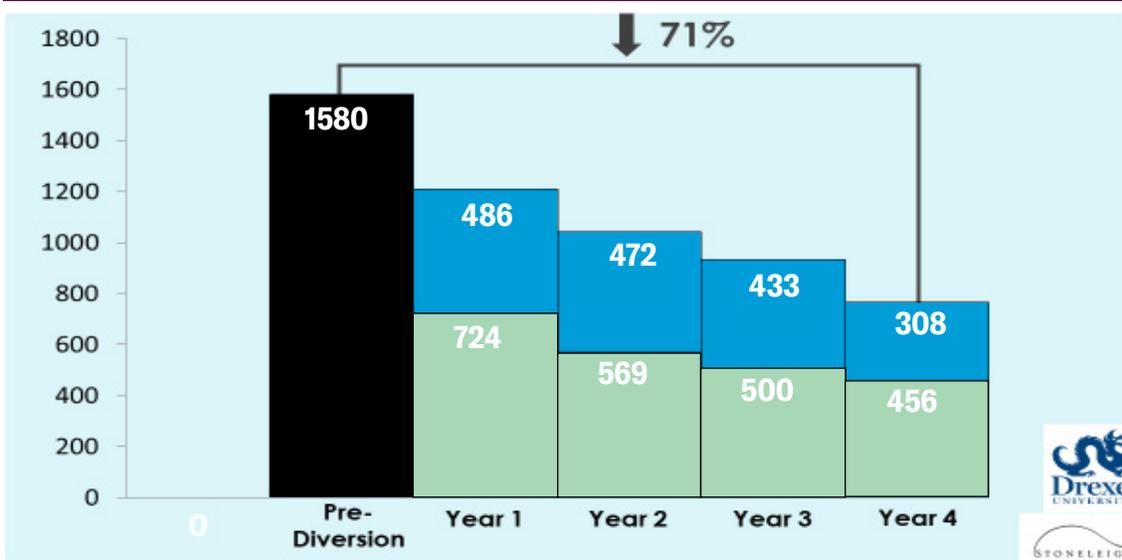
# The Diversion Process



\*The Philadelphia Police School Diversion Program takes a trauma-informed approach. PPD is the Philadelphia Police Department.

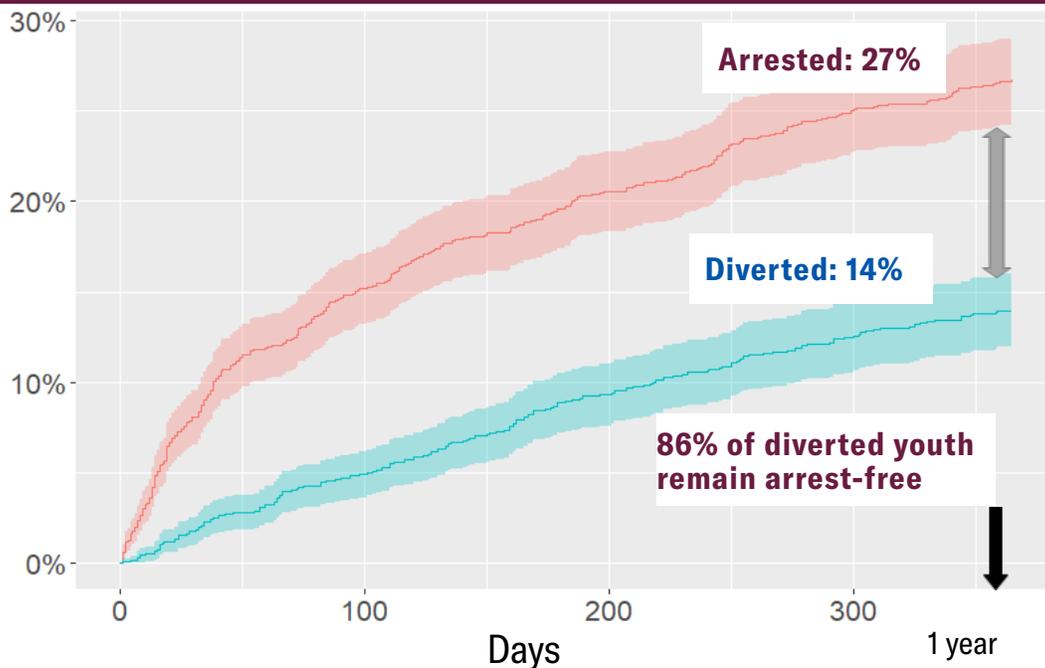
Eligible youth are offered a chance to participate in the diversion program. No arrest is made, whether or not they agree to do so. Most do participate. Here are the results of the program.

## Outcomes: Arrests



\*Black: arrests before the program began. Green: arrests after the program began. Blue: diversions.

## One-Year Recidivism Rates: Diverted vs. Arrested Youth



The diversion program includes intensive prevention services (IPS), of which the core components are academic support, social/emotional competency building, mentoring, and recreation. The Philadelphia Police School Diversion Program is now expanding to include summary retail theft.

### FAQs

**Q: How was the diversion program funded?**

**A:** Underutilized funds from the Department of Human Services were tapped. Students were sent to existing programs at no additional cost. DHS was also able to reallocate resources.

**Q: How do you evaluate school-based officers?**

**A:** It required a culture change. Officers making no arrests receive high accolades.

### Resources

“Keeping Kids in School and Out of Court: Philadelphia Police School Diversion Program,” an informational publication about the program

<https://stoneleighfoundation.org/wp-content/uploads/2018/02/Philadelphia-Police-School-Diversion-Program.pdf>

Memorandum of understanding between the Philadelphia School District and the city’s Police Department, Department of Human Services, District Attorney’s Office, Court of Common Pleas, Family Court, Department of Behavioral Health and Intellectual Disabilities Services, and the Defender Association of Philadelphia regarding the Philadelphia Delinquency Diversion Program (2014) <https://www.philasd.org/studentrights/wp-content/uploads/sites/67/2017/07/MOU-Diversion-Program-with-the-Philadelphia-Police-Department.pdf>

# 7. Memoranda of Understanding: The Formal Agreements Between School Districts & Police

## Monica McHale-Small

Adjunct Associate Professor of School Psychology, Temple University; retired Pennsylvania Superintendent and School Psychologist

## Harold Jordan

Senior Policy Advocate, American Civil Liberties Union of Pennsylvania

### Summary

By law, all Pennsylvania school districts are required to negotiate MOUs with area law enforcement. This requirement holds even if there are no officers stationed at schools. State law does not require schools to have police officers in the schools on a regular or full-time basis. Instead, it mandates that police be notified when certain specified serious incidents occur. The Pennsylvania Board of Education has approved a model MOU, and many districts adopt that model with only minor modifications.

Typically, the contents of these MOUs are not well understood by school officials, and the language of MOUs is often confusing. Also, local police have limited understanding that much of the content of these MOUs is open for discussion and negotiation. Districts can use the MOU negotiating process to incorporate additional positive student-support strategies into agreements with law enforcement. Such strategies reduce the possibility of unnecessary arrests and harmful police-student interactions.

### Details

Here are some considerations to keep in mind when developing an MOU.

- **MOUs can be tailored in a positive way.** Pennsylvania's model MOU is about much more than policing. Many parts of it urge administrators to take proactive approaches to working with students and to adopt interventions other than calling the police in routine disciplinary matters.
- **School officials should distinguish between incidents about which state law requires them to immediately contact the police and incidents about which police notification is discretionary.** Principals do not have to call police for every incident or conflict that occurs on school grounds. Unfortunately, the Pennsylvania model MOU, like the law it implements, is written in a confusing manner. As a result, schools feel pressure to report all items on the MOU's discretionary list. (See page 38 for ACLU's testimony to the Pennsylvania Board of Education about this issue.)
- **School districts can set limits on police interaction with students.** For example, in Philadelphia, the MOU states that children 10 and under will not be arrested. In some non-Pennsylvania districts, MOUs include protections for students' rights (such as

limitations on student searches), limits on arrests at school for non-school-related matters, parent notification requirements, and much more. Pennsylvania districts are free to add provisions, as long as they do not conflict with state law.

- **Districts can create MOUs that are not just about school policing.** A district does not have to be a silent partner in negotiations with law enforcement. It can insist on incorporating provisions that are in the best interest of students and families.
- **Administrators should discuss the MOU at school meetings and safety committee meetings** because many school officials are working under false assumptions. This review also can give members of the school community an opportunity to be proactive by suggesting other needed provisions for the document.
- **Nothing prevents MOUs from addressing other issues that arise in interactions between police and schools/students**, as long as the additions do not conflict with state law.
- **Sometimes, districts negotiate additional MOUs, adopt other district policing policies apart from the MOUs, or incorporate existing district policies into the state-required MOU.** For example:
  - » Besides the provision in Philadelphia’s MOU that prohibits the arrest of children 10 and younger, there is a second MOU that authorizes a diversion program in lieu of arrest.
  - » In many districts around the country, the MOU specifies the search standards that apply to school police — probable cause vs. reasonable suspicion.
  - » Some districts have established complaint processes through which students and parents can file a complaint about the behavior of school security.
  - » Some MOUs place limitations on the execution of arrests on school grounds for non-school-related offenses.
  - » Some district policies prohibit the use of force and mechanical restraints except as a last resort when there is a risk of serious harm.

**The result of instituting good practices will be more peaceful schools, fewer students getting arrested, and fewer instances of school districts getting sued.**

## Resources

- The Pennsylvania Model MOU was approved by the state Board of Education. This version includes annotations from the ACLU of Pennsylvania.  
[https://docs.wixstatic.com/ugd/10497b\\_b8fc51f671d647edab67669b8bcd3e81.pdf](https://docs.wixstatic.com/ugd/10497b_b8fc51f671d647edab67669b8bcd3e81.pdf)
- Model Memorandum of Understanding between School District and Police Department (2016), developed by the ACLU of California  
<https://www.aclunc.org/docs/Appendix-D-Model-MOU.pdf>
- Model Board Policy Regarding School District Police Departments (2016), developed by the ACLU of California <https://www.aclunc.org/docs/Appendix-C-ACLU-Board-Policy.pdf>
- Sample best practice policies on policing, collected by the ACLU of Pennsylvania  
<https://www.endzerotolerance.org/police-in-schools-policy-reforms>

# Testimony to the Pennsylvania State Board of Education

## Dr. Monica McHale-Small

*Note: McHale-Small delivered this testimony about the state's Model Memorandum of Understanding (Chapter 10) on September 12, 2018, in Harrisburg.*

Today I testify on behalf of the American Civil Liberties Union of Pennsylvania about the need for the Board to amend the [Model Memorandum of Understanding](#) that school districts are required to negotiate with local law enforcement.

Having the Model MOU list incidents where reporting is discretionary leaves school administrators confused as to what the law requires them to do. The net effect has been to over-report less serious incidents to police departments.

In October 2016, the PA Joint State Government Commission released a report to the Pennsylvania House on "Discipline Policies in Pennsylvania's Public Schools." The report recommends a change in the language of the MOU to eliminate mention of offenses where notification is discretionary.

Quoting from the [Report Summary](#): "Pennsylvania's system of mandatory and discretionary notifications goes beyond what is required under federal law. Discretionary referrals to law enforcement are already within the rights and duties of school administrators." The [full report](#) (pp. 66-71) explains that there are significant variations in the MOUs adopted by districts, with some listing certain discretionary incidents as being mandatory for purposes of reporting.

We urge the Board to amend and clarify the Model Memorandum of Understanding.

**ACLU**  
Pennsylvania

# School Policing Summits: The Details

## Feedback from Summit Participants

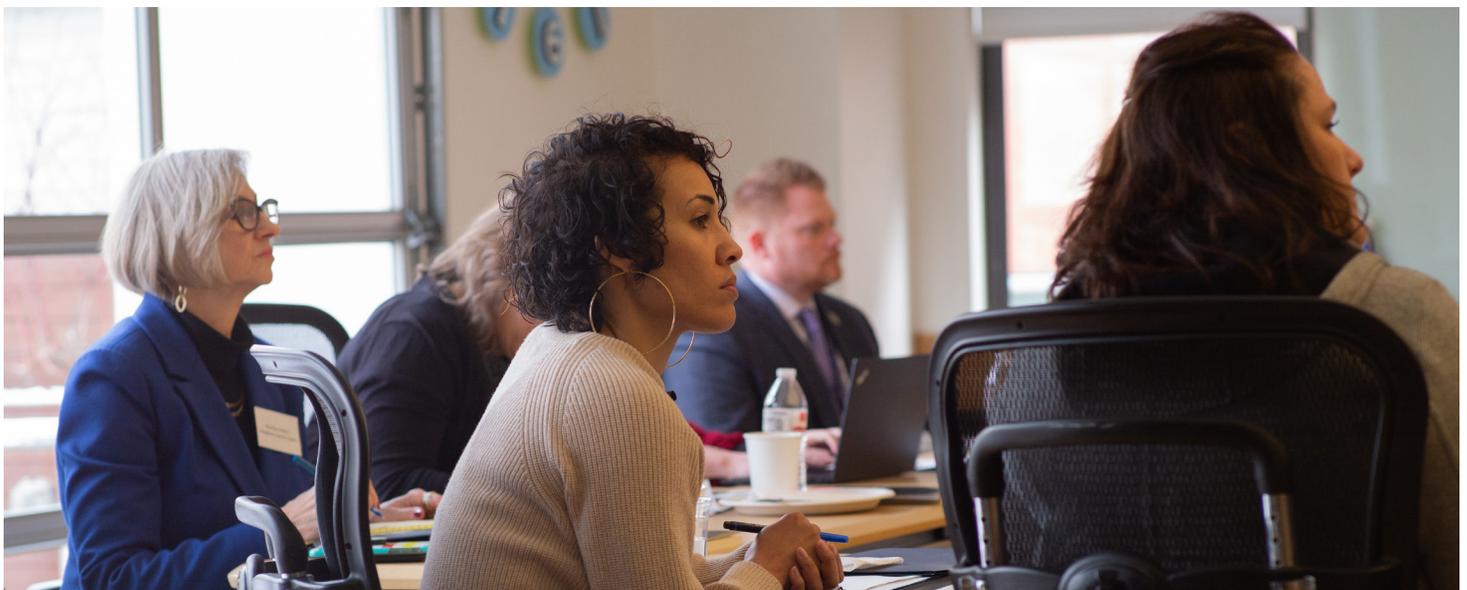
Education leaders identified several needs in the discussions at the two school policing summits:

- District leaders would like **more guidance on how to craft agreements with law enforcement** that clarify students' privacy rights, distinguish between disciplinary matters that should be handled by school staff vs. police, and better define accountability measures and parameters of police-student interactions.
- District leaders would like to learn **more about the collateral consequences of student contact with law enforcement**, including the possible long-term consequences for students (such as the impact on employment and educational opportunities) and the kind of record that is created when students have any level of contact with the justice system.
- District leaders would like to learn **more about strategies and programs that would result in fewer student arrests**.

Participants expressed a **desire to see funding realigned** so that it can be used to achieve a positive effect or outcome instead of being used to criminalize kids. Participants also suggested pushing for a change in the funding formula for school safety grants administered by Pennsylvania's Office of Safe Schools. Under the present formula, 75% of the funds are designated for the hiring of school police or school resource officers. Only 25% can be used for other approaches to safety.

Another approach would be to conduct a **comprehensive review of school incidents** and make a determination about whether it might be a better use of district resources to hire a staff member (such as an assistant principal) to handle them rather than a police officer.

Finally, the group acknowledged that it would be helpful to highlight **examples of where changed practices have had proven results** and use that as leverage in a conversation about policy change.



*School leaders and juvenile justice experts gathered for the March 2019 summit.*

## Presenters

- 1. Kevin Bethel** is the Executive Director of the Law Enforcement Juvenile Justice Institute, where he is working to expand implementation of the successful Philadelphia Police School Diversion Program locally, statewide, and nationally. Bethel is also a Stoneleigh Foundation Fellow. Before that, Bethel served in the Philadelphia Police Department for 29 years, culminating his service as the Deputy Police Commissioner.
- 2. Kristen Harper** is the Director of Policy Development at Child Trends. Before that, she spent seven years in the U.S. Department of Education. As Senior Policy Advisor for the Office of Special Education and Rehabilitative Services, Harper wrote federal regulations to reduce racial and ethnic disparities in the identification, placement, and discipline of children with disabilities. She also promoted alternatives to suspensions under the Supportive School Discipline Initiative.
- 3. Vanessa Torres Hernandez** is the former Youth Policy Director at the American Civil Liberties Union of Washington. Hernandez is the author of the report *Students Not Suspects: The Need to Reform School Policing in Washington State* and served as a member of Washington state’s Mass Shootings Work Group. In April 2019, Hernandez became the Director of Advocacy for the Northwest Justice Project, a legal aid program in Washington state. She is a former seventh-grade history teacher and a parent to two children in public school.
- 4. Harold Jordan** is Senior Policy Advocate for the American Civil Liberties Union of Pennsylvania. He is the author of *Beyond Zero Tolerance: Discipline and Policing in Pennsylvania Schools*, co-author of *Cops and No Counselors: How the Lack of School Mental Health Staff is Harming Students*, and the editor of *Know Your Rights: A Handbook for Public School Students in Pennsylvania*. Jordan has served on two Pennsylvania School Safety and Security Committee work groups – Threat Assessment and Behavioral Health & School Climate.
- 5. Aaron Kupchik** is Professor of Sociology and Criminal Justice at the University of Delaware. His research focuses on juvenile justice, the policing of youth in schools, and inequality among juveniles. He is the author of several books on these subjects: *The Real School Safety Problem: The Long-Term Consequences of Harsh School Punishment*, *Homeroom Security: School Discipline in an Age of Fear*, and *Judging Juveniles: Prosecuting Adolescents in Adult and Juvenile Courts*.
- 6. Rhonda McKitten** is a Stoneleigh Fellow and Youth Policy and Training Specialist at the Philadelphia Police Department. She has committed her career to improving the relationship between youth and police. For 16 years, she worked as a public defender at the Defender Association of Philadelphia.
- 7. Monica McHale-Small** is Adjunct Associate Professor of School Psychology at Temple University. She started her career as a school psychologist but has spent the last 13 years in a variety of administrative positions, including Superintendent of the Saucon Valley School District. While in Saucon Valley, she co-founded the Greater

Lehigh Valley Consortium for Equity and Excellence and helped develop the Equity and Inclusion Plan, which was formally adopted by the school board. McHale-Small received her doctorate in Psychology in Education from the University of Pennsylvania.

- 8. Susan Mizner** is Disability Counsel for the American Civil Liberties Union. She established the ACLU Disability Rights Program in 2012 and leads the ACLU's strategic plan for disability rights. Mizner served for nine years as Director of the San Francisco Mayor's Office on Disability, directing the city's ADA Self-Evaluation and Transition Plan and working with the mayor, Board of Supervisors, community organizations, and local citizens on disability rights issues.
- 9. Ajmel Quereshi** is Senior Counsel of the NAACP Legal Defense and Educational Fund. Previously, Quereshi served as Staff Counsel in the ACLU's national Prison Project and co-directed the Civil Rights Clinic at Howard University School of Law. Quereshi is also co-author of the report *Locked Out of the Classroom: How Implicit Bias Contributes to Disparities in School Discipline*.
- 10. Liz Sullivan-Yuknis** is the Associate Director of the National Economic and Social Rights Initiative. She previously worked as a consultant with Human Rights Education Associates and as Project Coordinator at the Center for Economic and Social Rights, where she wrote the report *Civil Society and School Accountability: A Human Rights Approach to Parent and Community Participation in New York City Schools*.



*The first summit was in 2018. Next will be workshops, help with data, and online resources.*



*Aaron Kupchik addressed school policing research at the March 2019 summit.*

## **Districts Represented**

Allegheny Intermediate Unit  
Avonworth School District  
Bethlehem Area School District  
Boyertown School District  
Centennial School District  
Chambersburg School District  
Coatesville Area School District  
East Penn School District  
Franklin Regional School District  
Garnet Valley School District  
Hempfield Area School District  
Middletown Area School District  
Moon Area School District  
Penn Hills School District  
Phoenixville Area School District  
Pittsburgh Public Schools  
Saucon Valley School District  
Shaler Area School District  
Southern Tioga School District  
West Chester Area School District  
Woodland Hills School District

## **Other Participating Institutions**

Allegheny County Courts  
Dyslexia and Literacy Network  
FISA Foundation  
Juvenile Court Judges' Commission  
National Center for Juvenile Justice  
Pennsylvania Board of Education

Summit speaker Kevin Bethel (left) talked about Philadelphia's police diversion program.



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Rhonda McKitten presented at the March 2019 summit.

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