

LAW ENFORCEMENT OFFICERS IN WAKE COUNTY SCHOOLS: THE HUMAN, EDUCATIONAL, AND FINANCIAL COSTS

Advocates for Children's Services (ACS) is statewide project of Legal Aid of North Carolina. ACS attorneys have represented, and continue to represent, dozens of Wake County Public School System students from low-wealth families. Our clients have faced school discipline policies and practices that combine to unfairly push them out of schools and into the juvenile and criminal justice systems. Our client base is disproportionately vulnerable to harm by these policies and practices. Yet these very children are the ones most in need of a high-quality education in order to survive and reach their fullest potential.

Therefore, in order to better represent our clients, ACS has researched the phenomenon known as the school-to-prison pipeline, and found that education experts and school districts around the nation have implemented practices that reduce the number of students sent into the juvenile and criminal justice systems. These best practices have proven to ensure safe and fair schools without the high rates of school-based court referrals (and other forms of push out) faced by our clients.

Our clients want safe and fair schools. As part of our advocacy for our clients, we present to the entire community, including students, parents, school officials, and advocates, the following explanation of the workings of one part of the school-to-prison pipeline--law enforcement officers in schools--and best practices used by other school systems to alleviate problems caused by over-policing.

INTRODUCTION

Each year, the Wake County Public School System (WCPSS) suspends and expels significant numbers of students—disproportionately students of color and students with disabilities. Many of these students enter the juvenile and criminal justice systems, where they face serious and negative life-long consequences. This push out of students occurs against a backdrop of zero tolerance discipline policies, unlimited principal discretion to suspend, a lack of due process protections for students facing exclusion, and too few high-quality intervention and alternative education programs. Another major contributor to students losing their education rights is the over-policing of schools.¹ Taken together, these factors combine to create in WCPSS one of the largest per capita school-to-prison pipelines in the country.²

During this time of financial crisis, in which communities have suffered ongoing major cuts to educational and social programs, school security budgets have remained high or increased. School-based police are employed because of inaccurate perceptions about school violence, fueled by irresponsible media coverage of isolated instances of school violence and unwarranted scare tactics.³ Policymakers and educational administrators appear to believe that full-time police officers are essential to school safety.⁴ Yet nationwide data and research suggest that this may not be the case, and that the money spent on school police would be better spent in other ways.

The reality is that school violence is declining and schools are among the safest places for children.⁵

There has been no serious, sustained public consideration about whether the North Carolina taxpayer dollars annually expended to pay police officers to patrol middle and high schools create any educational or public safety benefits whatsoever. This report attempts to begin that discussion. It explains the high financial, educational, and human costs of increased school policing against the backdrop of the present budget crisis besetting our schools; and discusses examples of reforms that have been successfully implemented in cities across the nation and that can be adapted for implementation across North Carolina.

BACKGROUND

Armed police officers are a common feature of Wake County public schools. In North Carolina, police officers in schools are called “school resource officers” (SROs). An SRO is a certified law enforcement officer who is permanently assigned to provide coverage to a school or a set of schools.⁶ SROs are not private security guards, law enforcement officers who are rotated in and out of schools as part of their regular duties, or off-duty law enforcement officers who work in schools for extra pay—although, as discussed below, these individuals are commonplace in Wake County public schools as well.⁷

During the 2009-2010 school year, there were fifty-four (54) SROs in Wake County public schools. They were employed by eight local police departments and the Wake County Sheriff’s Department.

Law Enforcement Agency	# of SROs
Apex Police Department	2
Cary Police Department	9
Fuquay-Varina Police Department	1
Garner Police Department	4
Holly Springs Police Department	6
Knightdale Police Department	1
Raleigh Police Department	9
Wake County Sheriff’s Department	21 (not including 2 supervisors)
Wake Forest Police Department	1

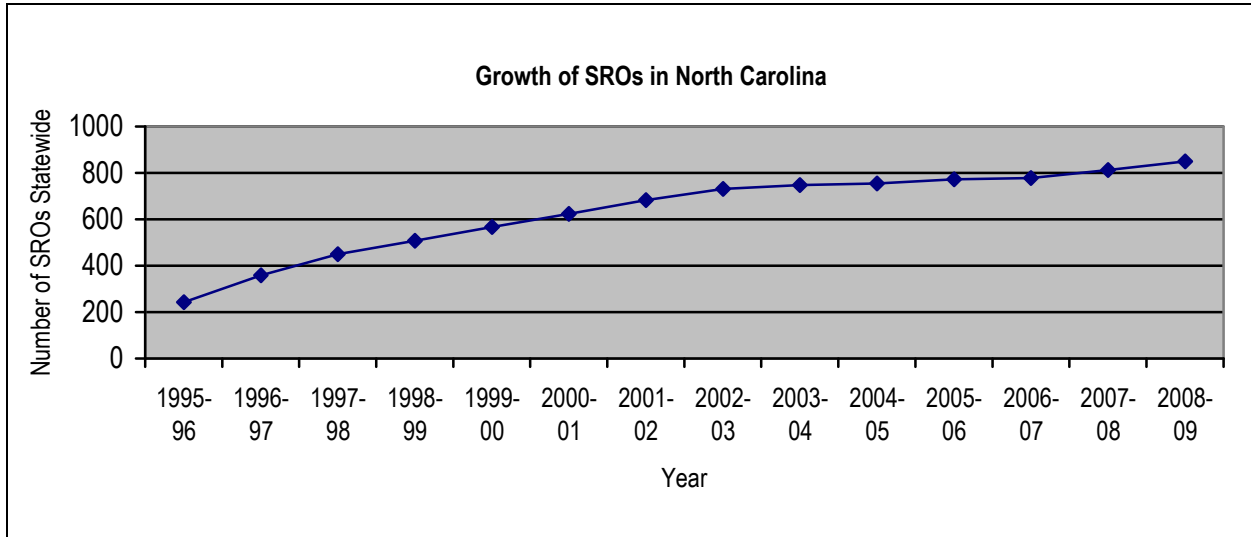
Furthermore, WCPSS employs six “security investigators” to patrol elementary and middle schools. Security investigators are non-police employees who are responsible for supporting school administrators in investigations of policy violations, school security, and emergency planning and response.⁸ They must have a minimum

of five years of experience as law enforcement officers or other security personnel.⁹ Security investigator job duties include, but are not limited to: interrogating students who are suspected of violating school policies, photographing evidence and performing field tests of suspected illegal substances, and collecting witness statements.¹⁰

WCPSS and local law enforcement agencies have entered into an agreement detailing the structure of their relationship and specifying the duties and responsibilities of SROs.¹¹ This memorandum of understanding (MOU) makes clear that SROs are primarily law enforcement officers and are under the control of their police or sherriff's departments, not school officials. SROs have no obligation to obey directives issued by school principals, for example. Moreover, **the only requirement for selection as a SRO is that the SRO meet all certification requirements for being a police officer or deputy sheriff. SROs are not required to have any experience working with children and youth.** Further, local law enforcement agencies exercise total control over the selection of SROs; school officials have no input as to which police officers or deputy sheriffs will patrol Wake County public schools. Over a decade ago, the director of the North Carolina Department of Juvenile Justice and Delinquency Prevention's Center for the Prevention of School Violence wrote: "what we know with certainty about SROs is minimal."¹² Little has changed in the last ten years, as the policies and practices of SROs remain largely obscured from public scrutiny.

Wake County's reliance on law enforcement personnel to deal with school discipline is a microcosm of statewide and nationwide trends. Nationwide studies show that huge numbers of middle schools and high schools have police officers. In 2004, 60% of high school teachers surveyed reported armed police officers on school grounds. In 2005, nearly 70% of students ages twelve to eighteen indicated that police officers or security guards patrolled their schools.¹³

As of the 2008-2009 school year, there were 849 SROs working full-time in North Carolina's public schools—an increase of 606 SROs (over 249% increase) from the first recorded baseline of 243 SROs in 1996. 113 of the 115 school districts have at least one identified SRO and ninety-eight counties have a SRO presence in at least one school.¹⁴



The phenomenon of armed law enforcement officials in schools is a relatively recent one. Police began to appear in schools in significant numbers only within the last twenty years. They were a response to several lethal school shootings in the 1990s, which garnered heavy media attention.¹⁵ This era also witnessed an emergence of tough-on-crime rhetoric, in which politicians stoked fears of merciless and violent “superpredators.”¹⁶ Television and newspaper stories on school shootings rarely provided essential context, most notably, the facts that children are at much greater risk of gun violence by adults than by other children, and that schools are overwhelmingly safe places.¹⁷ Instead, they frightened parents and provoked such “solutions” as zero-tolerance policies, cuts to after-school programs on the grounds that schools were becoming too dangerous for children to spend extra time in them, and full-time school police officers.¹⁸ The feared wave of violence by superpredators never came. Juvenile violent crime is down.¹⁹ Yet police officers in schools remain a permanent fixture. The WCPSS, with its history of aspiring to provide high-quality public education to all students, can and should be a national leader in reversing the trend.

HUMAN COSTS OF SCHOOL POLICE OFFICERS

The human costs of SROs are high. They include children being referred to juvenile and adult criminal justice systems and consequently suffering from devastating collateral consequences involved, as well as students being injured by excessive force.

Over the last two state fiscal years for which data is available (2008-2009 and 2009-2010), 1,460 WCPSS students have been referred to juvenile court through school-based delinquency complaints, which account for 30% of all delinquency complaints in Wake County. Significant racial disparities exist in the numbers of

children being pushed out of school and into delinquency court. Black students make up about twenty-six percent of students in WCPSS, yet they were subject to sixty-nine percent of school-based delinquency complaints over the last two state fiscal years. In contrast, White students represent fifty-one percent of the total student population, but only eighteen percent of school-based delinquency complaints.²⁰

Proponents of SROs argue that the presence of police can deter criminal acts by students,²¹ yet no clear causal link between a high police presence and school safety has been proven.²² It is clear, however, that the **numbers of arrests and referrals to the juvenile and criminal justice systems for minor crimes, such as disorderly conduct, rises in schools with full-time police officers.**²³ The chart below details the number of school-based delinquency complaints filed against WCPSS students for some minor offenses during the past two state fiscal years.²⁴

Offense	Total School-Based Delinquency Complaints Filed During Last 2 State Fiscal Years (2008-09; 2009-10)
Disorderly conduct	148
Misdemeanor larceny	174
Simple affray (fighting)	181
Simple assault	192
Communicating threats	54

The only local data on school-based delinquency complaints is kept by the North Carolina Department of Juvenile Justice and Delinquency Prevention, and this data is not readily available to the public—it has to be requested. Neither the **WCPSS nor law enforcement agencies collect data on school-based arrests or school-based delinquency and criminal complaints.** Consequently, it is difficult for the public to have a comprehensive understanding of the effects of school police officers are on our students. Public records requests can be submitted to WCPSS and law enforcement agencies but these offices can simply avoid disclosure of relevant statistics by declining to collect the pertinent information in the first instance. For example, in conducting research for this report, a public records request was sent to WCPSS that requested twenty-two specific pieces of information. WCPSS replied that it had no information as to: records reflecting the qualifications and process for becoming a SRO; records reflecting trainings that SROs are required to attend prior to being placed in a school; and records reflecting regulations and limitations of the duties and activities of SROs.²⁵ Furthermore, local law enforcement agencies are not required to disaggregate or report school-based criminal complaints from non-school-based criminal complaints. These failures to collect data make it extremely difficult for parents, policymakers, and concerned citizens to craft informed school policies and implement research-based practices.

North Carolina is one of only two states in the nation that automatically charges, prosecutes, and sentences all sixteen- and seventeen-year-olds in the adult criminal system, regardless of the severity of the crimes.²⁶ Therefore, school-based complaints that are filed against students age sixteen and older automatically go directly to the adult criminal system.²⁷ Because of the absence of data on school-based criminal complaints filed each year against students age sixteen and older, no one knows how many students are referred from school to the adult criminal system each year.

Students who are funneled into the juvenile and criminal systems for misconduct that historically had been addressed without police and court involvement face debilitating collateral consequences.²⁸ Students who are arrested and prosecuted often face suspension or expulsion for the same conduct for which they were court-involved. As a result of this dual punishment, they fall behind in their studies and are at an increased risk of leaving school permanently.²⁹ Those students who remain in school are also likely to be stigmatized by parents, teachers, administrators, and classmates, thus further isolating them from the educational system and their social support networks.³⁰

Students who are adjudicated delinquent or convicted of crimes run the risk of deportation or removal from the United States, ineligibility for student loans to pay for college, prohibition from participation in high school athletics, delay in earning a driver's license, and reduced employment opportunities.³¹ Further, public housing authorities may conduct background checks on any person residing in public housing, including juveniles.³² An adjudication or conviction for a child who resides in public housing may force that child's family to leave public housing.³³

The decision to install police in schools to mitigate the feared, but never realized, onslaught of school violence has created a lack of clarity in court cases about the legal status of these police officers. In *New Jersey v. T.L.O.*, the Supreme Court of the United States held that school officials would be granted more leeway than that which is given to police in conducting searches and seizures of students. Subsequently, many North Carolina courts have considered school police officers to be school officials, and thus, entitled to the same level of deference as teachers and principals. Police officers have been permitted to interrogate students without parents present. They routinely search lockers and desks in the absence of probable cause. The result has been a significant dilution of the rights of students,³⁴ confusion for public school children and parents,³⁵ and most worrisomely, more arrests and court referrals for students for misconduct that would have previously been addressed without police and court involvement.³⁶

In March of this year, the U.S. Supreme Court will address the related issue of in-school interrogation by off-campus police officers when it hears a case that came out of

a North Carolina middle school.³⁷ Perhaps the high court will restore some measure of fairness for students faced with demands by police in schools. Until then, **students' Fourth and Fifth Amendment Rights remain abstractions.³⁸ Therefore, safeguarding students' fundamental civil liberties is largely left up to local school districts to accomplish through heightened protections in board policies.**

Worse still, **students suffer serious physical injury and emotional trauma when law enforcement officers use their state-issued weapons.³⁹** Some WCPSS SROs carry TASERs. The TASER is shaped like a gun and is loaded with cartridges that shoot two metal electrodes that hook into the skin or clothing to prevent removal and distribute a charge of about 1200 volts in electrical pulses at a rate of nineteen pulses per second.⁴⁰

In 2003, after breaking up a fight, a Raleigh Police Department SRO picked up a student off of the ground and slammed him back down, causing the student to hit his head; the student was reported to have had a seizure as a result.⁴¹ On September 17, 2007, a Garner Police Department SRO TASERed a sixteen-year-old high school student; the student was hospitalized.⁴² On June 3, 2009, a SRO used pepper spray to break up a fight at Dillard Drive Middle School; paramedics were called.⁴³ On August 30, 2010, a Cary Police Department SRO TASERed a West Cary Middle School student; the girl needed to be taken to the hospital by paramedics for observation.⁴⁴ Most recently, on September 28, 2010, a Raleigh Police Department SRO used pepper spray in a crowded cafeteria; six ambulances were sent to the school, sixteen students had to be treated, and four students were taken to the hospital.⁴⁵ These stories are just the ones that made the news.

Perhaps most frightening, WCPSS leaves decisions about enforcement methods and equipment—and the collection of data and records about use of force by police—in the hands of individual law enforcement agencies. This is so despite the fact that the WCPSS Board of Education is obligated to: “establish and maintain records...and procedures considered essential to the efficient conduct of school business;”⁴⁶ provide “for the dissemination of information relating to the schools necessary for creating a well-informed public;”⁴⁷ and “adopt written policies or general principles to govern the discretionary action of those to whom it delegates authority.”⁴⁸ According to reports following the August 30, 2010 TASERing of a middle school girl, WCPSS is not entirely clear which weapons law enforcement officers carry in schools and does not document how often SROs use force on students, and therefore, does not know how many of its students have been subdued by TASERs and pepper spray. Ron Margiotta, chairman of the WCPSS Board of Education, reportedly said that the school system could benefit from a consistent standard for SROs. Board member Keith Sutton said, “I'm sure we'll get to the bottom of it.”⁴⁹ WCPSS has yet to create consistent standards for SROs or “get to the bottom of” the use of force issue.

FINANCIAL COSTS OF SCHOOL POLICE OFFICERS

Limited taxpayer dollars are being expended on school police officers. Wake County's budget shortfall is well-known.⁵⁰ The county expects a budget shortfall of \$12 to \$18 million.⁵¹ The school system is suffering too. Last summer, WCPSS laid-off transportation workers and Project Enlightenment faculty.⁵² WCPSS is facing the loss of more than \$100 million in funding next year from the elimination of federal stimulus dollars and cuts resulting from a projected shortfall of at least \$3 billion in state government revenue.⁵³ In total, WCPSS is looking at a total shortfall of \$50 million.⁵⁴ Wake County school officials recently commented that layoffs are inevitable; they are also discussing the possibility of cuts to programs and increases in classroom size.⁵⁵ Estimates place the number of teaching jobs that could be lost at between 400 to 2,000.⁵⁶ Yet, no cuts in school security expenses have been proposed, despite the fact that WCPSS, which pays for security investigators and private security officers, would save money, and the municipalities and county, which pay for SROs, would save local tax dollars that could otherwise be saved or diverted more productively into the school system.

During the 2009-2010 school year, the average SRO salary in Wake County was \$50,291 and the average security investigator salary was \$43,475.⁵⁷ During that same school year, WCPSS spent an additional (i.e., not including SRO and security investigator salaries) \$1.2 million on school security. The bulk of this amount—slightly more than \$1 million—went to Allied Barton Security, a private company that provides non-law enforcement security officers, such as bicycle patrol officers for school parking lots.⁵⁸

The relatively lower salaries of teachers helps put in perspective the salary data on police and security officers. A national board-certified teacher with a bachelor's degree would need six years of licensed experience before earning the average security investigator salary and twelve years of licensed experience before earning the average SRO salary. For those teachers who are not board-certified, but nonetheless possess a bachelor's degree, they would need ten years of experience to match the current security investigator salary and twenty-one years of experience to match the average SRO salary.⁵⁹

Extraneous expenses should also be scrutinized. During the 2009-2010 school year, WCPSS spent over \$3,000 out of its security budget on Gimmees.com, a promotional products company. WCPSS also paid for security personnel to attend workshops on interrogation techniques. WCPSS is a repeat customer of John E. Reid & Associates, a private firm that teaches training seminars on advanced interviewing and interrogation techniques.⁶⁰ During the 2007-2008 school year, WCPSS paid for security personnel to attend training programs conducted by Laboratory for Scientific

Interrogation, Inc., a private business firm led by a former Israeli Police Department polygraph examiner.⁶¹ No money was spent to train SROs on adolescent development or to teach crucial information on students with disabilities.

EDUCATIONAL COSTS OF SCHOOL POLICE OFFICERS

Studies suggest that a heavy police presence intimidates students, creates an adversarial environment, and pushes out the most vulnerable students.⁶² Rather than creating a safe, nurturing learning environment that respects fundamental freedoms,⁶³ SROs cause many students to feel and experience a prison-like atmosphere of suspicion, control, and dominance.⁶⁴ Police presence in schools can alienate students, interfere with normal adolescent development,⁶⁵ and work against a cooperative learning environment by producing hostility and fear.⁶⁶ Even if some students are not targeted as “suspects” or “law breakers,” they may suffer serious psychological impacts by witnessing classmates targeted, TASERed, interrogated, whisked away in handcuffs, and charged with delinquency or criminal offenses.⁶⁷ Moreover, conduct that is a manifestation of a student’s disability can be, and often is, treated as criminal conduct, despite the student having little to no ability to control the behavior.⁶⁸ This criminalized environment is the opposite of the loving, open environment teachers need to build trust, engage with students, and facilitate the pursuit of knowledge and understanding.⁶⁹

Furthermore, teachers and administrators may either defer to SROs on disciplinary matters or find their classroom authority usurped by SROs in the name of safety and security. Teachers and administrators defer to SROs’ perceived expertise, even for relatively minor disciplinary matters that educators are better equipped to handle. Consequently, “overdependence on police intervention might also be the undermining of school authority. That is, students may perceive school authorities as impotent and may feel more free to act out in the absence of police.”⁷⁰ Moreover, research indicates that “an overdependence on police intervention in a wide range of less serious problems, which historically have been managed by school authorities, can result in a decrease in schools’ willingness to develop programs oriented toward prevention and developmentally appropriate remediation and punishment.”⁷¹ Worse yet, the shift in responsibility for maintaining order and discipline⁷² has happened even though most officers have little or no training in fields such as education and developmental psychology, whereas teachers and administrators are trained to handle such situations and accountable to the local Board of Education.⁷³

MODELS OF REFORM

Faced with problems similar to those in WCPSS, school systems across the nation have enacted progressive reforms to ameliorate the school-to-prison pipeline and over-criminalization of student (mis)conduct, all while keeping schools safe and saving taxpayer dollars. The following are examples of such reforms, all of which could be adapted to WCPSS.

- Denver Public Schools expressly limits the ability of police to charge students with criminal offenses to only a few serious offenses. For all other offenses, schools officials are prohibited from referring the student to the police. The policy explicitly encourages alternative strategies such as restorative justice and mediation instead of referral to the juvenile or criminal justice systems. Further, the policy states that “when the victim of a law violation is a school or the District, or when there is no victim, incidents are to be resolved without the involvement of law enforcement whenever practicable.”⁷⁴
- The San Francisco Unified School District employs a disciplinary policy that limits police involvement to situations in which it is: a) necessary to protect the physical safety of students and/or staff; b) required by law; or c) appropriate to address criminal behavior of non-students. The policy specifies that “police involvement should not be requested in a situation that can be safely and appropriately handled by the District’s internal disciplinary procedures” and that “disproportionate use of police intervention in inappropriate situations shall be cause for corrective action by the District.”⁷⁵
- In Jefferson County (Birmingham), Alabama, a family court judge, school superintendent, police chief, and community members developed a “set of graduated consequences for certain offenses so that youth would not automatically be arrested and referred to court. Under the protocol, a first offense should result in a warning, a second offense may require the student and a parent to attend a school offense workshop, and a third offense may be referred to court.” Notably, even before the official adoption of the protocol, “advocacy efforts had already led to a decrease in family court referrals by about 50%.”⁷⁶ Ultimately, the collaborative agreement is expected to reduce court referrals from Birmingham schools by 84%. It also gave more time to SROs to “police” and “protect,” and administrators and teachers gained respect of students and control of schools.⁷⁷
- In Clayton County (metropolitan Atlanta), Georgia, a cooperative agreement was reached between the school district, prosecutor’s office, juvenile court, and local police departments that ensures “misdemeanor delinquent acts,”

such as fighting, disorderly conduct, most obstruction of police, and most criminal trespass, do not result in delinquent or criminal charges unless the student commits a third similar offense during the school year and the school principal reviews the student's behavior plan.⁷⁸ Students receive warnings after a first offense and a referral to mediation or school conflict training programs for a second offense. Furthermore, elementary school students cannot be referred to law enforcement for "misdemeanor delinquent acts" committed on school premises.⁷⁹ As a result of these reforms, juvenile court referrals have been reduced by 47% in three years, Black students have been referred significantly less frequently, the relationships between students and police officers have improved, and graduation rates have increased by 20%.⁸⁰

- The Florida Legislature passed a new law that discourages schools from arresting students for misconduct such as minor fights and disturbances.⁸¹

BEST PRACTICES

WCPSS should consider how similar reforms might create positive alternatives to harsh discipline practices that involve law enforcement. Reevaluating the current police staffing levels may result in financial savings being applied to other crucial support functions, such as guidance counselors and social work staff. Shifting funding in this way could strengthen the educational environment and provide alternatives to suspensions, arrests, and court referrals, such as restorative justice, peer mediation, community service, restitution, and mental health programs.⁸² The best practices that may reduce or eliminate over-criminalization of student (mis)conduct and ameliorate the school-to-prison pipeline are below.

Additional Training of School Police Officers. All SROs, security investigators, and other security personnel would benefit from mandatory, intensive, on-going trainings, including instruction on:

- Legal standards for searches and seizures of students in schools
- Positive Behavior Interventions and Supports (PBIS)
- Adolescent development
- Working with students who have disabilities and other special needs
- Cultural competency
- De-escalating students without using physical force
- Using safe restraint techniques
- Consequences for youth of court involvement and arrests

Improved Search, Seizure, and Interrogation Policies. The MOU agreed to among WCPSS and local police and sheriff departments⁸³ dictates that SROs are law

enforcement officials and school administrators and teachers need to understand the implications of that legal status. Revising the MOU or drafting local protocols may clarify that SROs must find probable cause before conducting warrantless searches of students and must allow the presence of parents or guardians, as well as supply the warnings required by *Miranda v. Arizona*, before conducting interrogations. Such protocol both protects students' constitutional rights and helps ensure that children do not offer false confessions, which studies have shown they are particularly likely to do.⁸⁴ Adherence to this bright-line policy gives students, teachers, administrators, and SROs clear guidance as to the legal status of school police officers. Further, it sends the message to our students that they are respected members of our community and rights-bearing citizens, and that fundamental fairness is an important value.

Removal of Guns and TASERs from School Campuses. Guns and TASERs should not be allowed on school campuses. The need for such weapons is greatly lessened when SROs and other security personnel undergo the training suggested above. Prohibiting guns and TASERs also eliminates the risk that such weapons will be used unjustifiably against students. If guns and TASERs continue to be carried by SROs, their use should be strictly limited. When SROs use such weapons, the circumstances should be investigated and data about their use should be collected and published.

Reduction of School-Based Arrests and Delinquency and Criminal Charges. The reforms discussed above prevent arrests and delinquency and criminal charges from being filed against students who commit minor offenses in schools. Also, they required that a manifestation determination review (MDR) be conducted before the filing of delinquency and criminal complaints against students with a disability. A MDR will determine whether the alleged misconduct was substantially related to a student's disability or whether the alleged misconduct was a direct result of the school's failure to implement student's Individualized Education Program (IEP).⁸⁵ If either is true, then such complaints would not be filed.

Improved Complaint Procedures. Students, parent, teachers, and administrators need to know how to complain about any SROs behaving inappropriately. Clear, standardized, well-publicized procedures will address such concerns. An independent review board made up of parents, students, and community members could hear such complaints and determine appropriate action, including the removal of a SRO from the school.

Detailed Memorandum of Understanding. A more detailed MOU that includes not only WCPSS and local law enforcement agencies, but also juvenile court judges, court counselors, public defenders, and prosecutors, and advocacy organizations will result in greater clarity of roles and clearer lines of authority. The MOU should include:

- Qualifications for becoming a SRO
- Process for becoming a SRO
- Trainings that SROs are required to attend
- Duties, responsibilities, and activities of SROs
- Procedures that SROs are required to follow, including procedures to be followed with respect to interrogations and searches of students
- Limitations on SROs, including limitations with respect to being involved in incidents of misbehavior at school, filing delinquency and criminal charges, and arresting students
- Factors by which SROs will be evaluated and reasons for removing SROs from schools
- Complaint procedures
- Consequences for mistreatment of students, parents, teachers, administrators, and others who are lawfully on school property

Accessible Data and Transparency. Data about SROs and security investigators should be disaggregated as follows to make it more complete and easier to understand by the general public:

- School(s)
- Employer (e.g., police department, sheriff's department, school district)
- Years of experience in the current position
- Years of experience as a law enforcement officer
- Salary
- Gender
- Race
- Age
- Type of weapon(s) carried (e.g., pepper spray, TASER, gun)
- Number of incidents involving the use of force
- Number of school-based delinquency complaints filed, categorized by the type of allegation
- Number of school-based criminal complaints filed, categorized by the type of allegation
- Number of school-based arrests made, categorized by the type of allegation

Additionally, data about school-based arrests, delinquency complaints, and criminal complaints should be publicly available and disaggregated by:

- Date of offense
- Primary offense
- School
- Student's grade
- Student's race

- Student's gender
- Student's disability status
- Student's economic status (e.g., economically disadvantaged vs. not economically disadvantaged)
- Individual who made the arrest or filed the complaint

In response to concerns among educational and political leaders about the absence of data on school-based arrests and referrals to the criminal justice system, the New York City Council recently passed a law requiring the Police Department to provide comprehensive data on the numbers of and reasons for student arrests.⁸⁶

CONCLUSION

Education is essential to a young person's ability to think critically, interact with others considerately, and participate in our democracy fully. The reduction or elimination of armed law enforcement officers in Wake County's middle and high schools would save money and create more positive school environments. Research shows that alternative policies and programs are available to ensure student and teacher safety and reduce the harsh discipline practices that lead students into the school-to-prison pipeline. These reforms would not only save money but also ensure that our young people can learn, thrive, and grow.

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ABOUT ADVOCATES FOR CHILDREN’S SERVICES

Advocates for Children’s Services (ACS) is statewide project of Legal Aid of North Carolina, Inc. ACS’ managing attorney, three staff attorneys, and paralegal primarily engage in the following activities:

- Direct representation: ACS staff provide free, high-quality legal advice and representation for children from low-income families, primarily in education law matters, including school suspension and special education.
- Community education: ACS staff conduct “Know Your Rights” workshops for students and parents, as well as trainings for local service providers and advocacy organizations. Additionally, ACS staff engage in media outreach and publish fact sheets, reports, policy briefs, self-help guides, op-eds, and articles.

For more information about ACS, visit: www.legalaidnc.org/acs.

ENDNOTES

¹ See American Civil Liberties Union, *What is the School-to-Prison Pipeline?*, <http://www.aclu.org/racial-justice/what-school-prison-pipeline> (last visited Jan. 5, 2011).

² See JASON LANGBERG & CARY BREGE, ZERO TOLERANCE FOR THE SCHOOL-TO-PRISON PIPELINE IN WAKE COUNTY: MAGNITUDE OF THE CRISIS (2009), http://www.legalaidnc.org/public/learn/statewide_projects/acs/ACS_Publications/TheSchool-to-PrisonPipelineInWakeCo_IssueBrief_ACS_Dec2009.pdf (last visited Jan. 5, 2011).

³ See Caven S. Mclouglin, Robert J. Kubick, Jr., & Melissa Lewis, *Best Practice in Promoting Safe Schools*, 1181-1194, in BEST PRACTICES IN SCHOOL PSYCHOLOGY IV (Alex Thomas & Jeff Grimes eds., 4th ed., 2002); ADVANCEMENT PROJECT, EDUCATION ON LOCKDOWN: THE SCHOOLHOUSE TO JAILHOUSE TRACK 11 (2005), <http://www.advancementproject.org/sites/default/files/publications/FINALEOLrep.pdf> (last visited Jan. 5, 2011); Randall R. Beger, *The "Worst of Both Worlds": School Security and the Disappearing Fourth Amendment Rights of Students*, 28 CRIMINAL JUSTICE REVIEW 336, 338-39 (2003).

⁴ See Irwin A. Hyman & Donna C. Perone, *The Other Side of School Violence: Educator Policies and Practices That May Contribute to Student Misbehavior*, 36 JOURNAL OF SCHOOL PSYCHOLOGY 7, 9-10 (1998).

⁵ See Randall R. Beger, *Expansion of Police Power in Public Schools and the Vanishing Rights of Students*, 29 SOCIAL JUSTICE 119, 120-21 (2002); Randall R. Beger, *The "Worst of Both Worlds," supra* note 3, at 338-39 (2003); ADVANCEMENT PROJECT, EDUCATION ON LOCKDOWN, *supra* note 3; THE INDIANA EDUCATION POLICY CENTER, PREVENTING SCHOOL VIOLENCE: A PRACTICAL GUIDE TO COMPREHENSIVE PLANNING 3-5, <http://www.indiana.edu/~safeschl/psv.pdf> (last visited Jan. 8, 2011).

⁶ NC Department of Juvenile Justice and Delinquency Prevention, Center for the Prevention of School Violence, *School Resource Officer*, http://www.ncdjdp.org/cpsv/school_resource_officer.html (last visited Jan. 8, 2011).

⁷ NC Department of Juvenile Justice and Delinquency Prevention, Center for the Prevention of School Violence, *Annual School Resource Officer Census 2008-2009*, 1, http://www.ncdjdp.org/cpsv/pdf_files/SRO_Census_08_09.pdf (last visited Jan. 8, 2011).

⁸ See Job Responsibilities: Security Investigator, Letter from Michael Evans, Chief Communications Officer, WCPSS to Jason Langberg, Advocates for Children's Services (June 11, 2010) (on file with the authors).

⁹ *Id.*

¹⁰ *Id.*

¹¹ See SCHOOL RESOURCE OFFICER PROGRAM MEMORANDUM OF UNDERSTANDING (MOU), , Letter from Michael Evans, Chief Communications Officer, WCPSS to Jason Langberg, Advocates for Children's Services (June 11, 2010) (on file with the authors).

The MOU agreement is in force from 1 July 2009 through 30 June 2014.

¹² Joanne McDaniel, NC Department of Juvenile Justice and Delinquency Prevention, *School Resource Officers: What We Know, What We Think We Know, What We Need to Know*, 2 (1999), , http://www.ncdjdp.org/cpsv/pdf_files/whatweknowsp01.pdf (last visited Jan. 8, 2011).

¹³ CATHERINE Y. KIM & I. INDIA GERONIMO, POLICING IN SCHOOLS: DEVELOPING A GOVERNANCE DOCUMENT FOR SCHOOL RESOURCE OFFICERS IN K-12 SCHOOLS 5 (2009),

http://www.aclu.org/pdfs/racialjustice/whitepaper_policinginschools.pdf (reporting on studies and noting absence of data of a nationwide scope) (last visited on Jan. 8, 2011).

¹⁴ See note 8, *supra*.

¹⁵ See, e.g., Lisa H. Thureau & Johanna Wald, *Controlling Partners: When Law Enforcement Meets Discipline in Public Schools*, 54 N.Y.L. SCH. L. REV. 977, 978 (2010) citing David Firestone, *After Shootings, Nation's Schools Add to Security*, NEW YORK TIMES, August 13, 1999, at A1; Peter Price, *When is a Police Officer an Officer of the Law?: The Status of Police Officers in Schools*, 99 J. CRIM. L. & CRIMINOLOGY 541, 543, 547-48 (2009).

¹⁶ JOHANNA WALD & LISA THURAU, FIRST, DO NO HARM 1 (2010), <http://charleshamiltonhouston.org/assets/documents/news/FINAL%20Do%20No%20Harm.pdf> (last visited on Jan. 8, 2011).

¹⁷ ELIZABETH DONOHUE, ET. AL., SCHOOL HOUSE HYPE: SCHOOL SHOOTINGS AND THE REAL RISKS KIDS FACE IN AMERICA 2 (2004).

¹⁸ *Id.*

¹⁹ U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, JUVENILE ARRESTS 2008, 1 (2009), <http://www.ncjrs.gov/pdffiles1/ojdp/228479.pdf> (last visited on Jan. 27, 2011).

²⁰ Letter from NC Department of Juvenile Justice and Delinquency Prevention, to Jason Langberg, Advocates for Children's Services, (Sept. 22, 2010) (on file with the authors).

²¹ See Matthew Theriot, *School Resource Officers and the Criminalization of Student Behavior*, 37 JOURNAL OF CRIMINAL JUSTICE 280, 284-85 (2009).

²² See Price, *supra* note 15, at 542 n. 17 (2009) (citations omitted).

²³ Theriot, *supra* note 21, at 284.

²⁴ Letter from NC Department of Juvenile Justice and Delinquency Prevention, to Jason Langberg, Advocates for Children's Services, (Sept. 22, 2010) (on file with the authors). While it is clear that the numbers of referrals have gone down somewhat in the most recent year for which data are available, the numbers are still unacceptably high.

²⁵ Letter from Michael Evans, Chief Communications Officer, WCPSS, to Jason Langberg, Advocates for Children's Services (June 11, 2010) (on file with the authors).

²⁶ See Tamar Birkhead, *North Carolina, Juvenile Court Jurisdiction, and the Resistance to Reform*, 86 N.C. L. Rev. 1443, 1445 (2008).

²⁷ N.C. GEN. STAT. § 7B-1604 (2010).

²⁸ See ADVANCEMENT PROJECT, EDUCATION ON LOCKDOWN: THE SCHOOLHOUSE TO JAILHOUSE TRACK, *supra* note 5, at 12.

²⁹ Matt Cregor & Damon Hewitt, *Dismantling the School-to-Prison Pipeline: A Survey from the Field*, 20 POVERTY AND RACE 5 (2011), [http://naacpld.org/files/case_issue/Dismantling the School-to-Prison Pipeline.pdf](http://naacpld.org/files/case_issue/Dismantling%20the%20School-to-Prison%20Pipeline.pdf) (last visited Jan. 25, 2011).

³⁰ See Kristin Henning, *Eroding Confidentiality in Delinquency Proceedings: Should Schools and Public Housing Authorities Be Notified?*, 79 N.Y.U. L. REV. 520, 527-30 (2004).

³¹ See NORTH CAROLINA INDIGENT DEFENSE SERVICES, JUVENILE ADJUDICATIONS, SELECTED COLLATERAL CONSEQUENCES, & EXPUNGEMENT (2010), <http://www.ncids.org/Juvenile%20Defender/Training%20Seminars/2010JuvenileDefenderConference/AdjudicationCollateralConseq.pdf> (last visited on Jan. 8, 2011); Birkhead, *supra* note 26, at 1454-1458.

³² See Henning, *supra* note 30, at 569. The constitutionality of such checks is debatable, as Henning notes.

³³ *Id.*, at 573-76 (2004).

³⁴ See, e.g., Paul Holland, *Schooling Miranda: Policing Interrogation in the Twenty-First Century Schoolhouse*, 52 LOY. L. REV. 39 (2006); Michael Pinard, *From the Classroom to the Courtroom: Reassessing Fourth Amendment Standards in Public School Searches Involving Law Enforcement Authorities*, 45 ARIZ. L. REV. 1067 (2003).

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³⁶ See *id.*, at 978, 980-81 *citing* ADVANCEMENT PROJECT & CIVIL RIGHTS PROJECT, OPPORTUNITIES SUSPENDED: THE DEVASTATING CONSEQUENCES OF ZERO TOLERANCE AND SCHOOL DISCIPLINE POLICIES (2000), <http://advancementproject.org/sites/default/files/publications/opsusp.pdf> (last visited on Jan. 8, 2011).

³⁷ J.D.B. v. North Carolina, 363 N.C. 664 (2009), *certiorari granted by* J.D.B. v. North Carolina, 2010 WL 2215447 (2010).

³⁸ See, e.g., *In re W.R.*, 675 S.E.2d 342, 344 (N.C. 2009) (finding no custodial interrogation where school official and SRO questioned student), *see also* Beger, *Expansion of Police Power in Public Schools and the Vanishing Rights of Students*, *supra* note 5, at 127; Beger, *The "Worst of Both Worlds," supra* note 5, at 350-51.

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⁴⁰ See NC TASER SAFETY PROJECT, ACLU OF NORTH CAROLINA, NOT THERE YET: THE NEED FOR SAFER TASER POLICIES IN NORTH CAROLINA, <http://acluofnc.org/files/NotThereYet.pdf> (last visited on Jan. 8, 2011).

⁴¹ Cindy George, *Lawsuit Claims Officer Injured Teen at School*, THE NEWS & OBSERVER, August 10, 2006, <http://www.newsobserver.com/2006/08/10/57761/lawsuit-claims-officer-injured.html> (last visited on Jan. 8, 2011).

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⁴⁶ WCPSS Board Policy 1000(C)(2)(i).

⁴⁷ WCPSS Board Policy 1000(C)(2)(j).

⁴⁸ WCPSS Board Policy 1510.

⁴⁹ Specht, *supra* note 39.

⁵⁰ See Ray Martin, *Wake Braces For Budget Cuts*, THE NEWS & OBSERVER, March 13, 2010, <http://www.newsobserver.com/2010/03/13/386171/wake-braces-for-budget-cuts.html> (last visited on Jan. 8, 2011).

⁵¹ *Id.*

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⁵⁵ See Hui & Goldsmith, *supra* note 53.

⁵⁶ See T. Keung Hui, *State Cuts Could Cost Wake More Than 400 Classroom Teachers*, THE NEWS & OBSERVER, November 22, 2010, <http://www.newsobserver.com/2010/11/22/820005/state-cuts-could-cost-wake-more.html> (last visited on Jan. 8, 2011); *School Squeeze*, *supra* note 54; T. Keung Hui, *John Tedesco and Stan Norwalk Talk About Teacher Layoffs*, THE NEWS & OBSERVER, November 11, 2010, <http://blogs.newsobserver.com/wakeed/john-tedesco-and-stan-norwalk-talk-about-teacher-layoffs> (last visited on Jan. 8, 2011).

⁵⁷ Note that WCPSS does not pay school police salaries; such salaries are funded through police departments.

⁵⁸ See WAKE COUNTY PUBLIC SCHOOLS ACCOUNT ACTIVITY REPORT (JULY-09-FY-10 TO JUN-10-FY-10), Letter from Michael Evans, Chief Communications Officer, WCPSS to Jason Langberg, Advocates for Children's Services (June 11, 2010) (on file with the authors).

⁵⁹ See 2010-11 TEACHERS "A" LICENSE SALARIES (BACHELOR'S DEGREE) and 2010-11 TEACHERS "A" LICENSE SALARIES WITH BOARD CERTIFICATION (BACHELOR'S DEGREE), <http://www.wcpss.net/salary-schedules/teachers/a.html> and <http://www.wcpss.net/salary-schedules/teachers/a-board.html> (last visited on Jan. 8, 2011). Note also that SROs and security investigators in Wake County average only slightly more than three (3) years of experience as school security personnel.

⁶⁰ Legal scholars have sharply criticized the use of the techniques taught by Reid in interrogating children. See, e.g., Tamar Birkhead, *The Age of the Child: Interrogating Juveniles after Roper v. Simmons*, 65 WASH. & LEE L. REV. 385, 408-11 (2008).

⁶¹ This information was acquired after petitioning WCPSS and local police departments with a Public Records Request pursuant to N.C. Gen. Stat. §132-1 and § 160A-168.

⁶² See Kim & Geronimo, *supra* note 13, at 6.

⁶³ See UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD, art. 29.

⁶⁴ See Henry A. Giroux, *Ten Years After Columbine*, COUNTER PUNCH, April 20, 2009, <http://www.counterpunch.org/giroux04212009.html> (last visited on Jan. 9, 2011), *citing* CHRISTOPHER ROBBINS, *EXPPELLING HOPE* (2008); WILLIAM LYONS & JULIE DREW, *PUNISHING SCHOOLS: FEAR AND CITIZENSHIP IN AMERICAN PUBLIC EDUCATION* (2006); HENRY A. GIROUX, *THE ABANDONED GENERATION* (2004); Paul J. Hirschfield, *Preparing for Prison?: The Criminalization of School Discipline in the USA*, 12 *THEORETICAL CRIMINOLOGY* 79 (2008).

⁶⁵ See ANNENBERG INSTITUTE FOR SCHOOL REFORM, MAKE THE ROAD NEW YORK, & NEW YORK CIVIL LIBERTIES UNION, *SAFETY WITH DIGNITY: ALTERNATIVES TO THE OVER-POLICING OF SCHOOLS* 10 (2009), http://www.nyclu.org/files/publications/nyclu_pub_safety_with_dignity.pdf (citation omitted) (last visited on Jan. 9, 2011).

⁶⁶ See Beger, *The "Worst of Both Worlds," supra* note 5, at 341, *citing* Clifford H. Edwards, *Student Violence and the Moral Dimensions of Education*, 38 *PSYCHOLOGY IN THE SCHOOLS* 249-57 (2001).

⁶⁷ See COMMUNITY RIGHTS CAMPAIGN, YOUTH JUSTICE COALITION, & DIGNITY IN SCHOOLS, *POLICE IN LAUSD SCHOOLS: THE NEED FOR ACCOUNTABILITY AND ALTERNATIVES* 8 (2010), <http://www.thestrategycenter.org/sites/www.thestrategycenter.org/files/Police%20in%20LAUSD%20Schools%20-%202002%20sm.pdf> (last visited on Jan. 9, 2011).

⁶⁸ See Dean Hill Rivkin, *Decriminalizing Students with Disabilities*, 54 *N.Y.L. SCH. L. REV.* 909 (2009 – 2010); Joseph B. Tulman & Douglas M. Weck, *Shutting Off the School-to-Prison Pipeline for Status Offenders with Education-Related Disabilities*, 54 *N.Y.L. SCH. L. REV.* 875 (2009 - 2010).

⁶⁹ See Arrick Jackson, *Police-School Resource Officers' and Students' Perception of the Police and Offending*, 25 *POLICING: AN INTERNATIONAL JOURNAL OF POLICE STRATEGIES AND MANAGEMENT* 631, 632 (2002).

⁷⁰ See Irwin A. Hyman & Donna C. Perone, *The Other Side of School Violence: Educator Policies and Practices That May Contribute to Student Misbehavior*, 36 *JOURNAL OF SCHOOL PSYCHOLOGY* 7, 12 (1998).

⁷¹ *Id.* at 11-12.

⁷² See Beger, *Expansion of Police Power in Public Schools and the Vanishing Rights of Students, supra* note 5, at 122.

⁷³ See Ben Brown, *Understanding and Assessing School Police Officers: A Conceptual and Methodological Comment*, 34 *JOURNAL OF CRIMINAL JUSTICE* 591 (2006).

⁷⁴ Denver Public Schools, *Policy JK-R-Student Conduct and Discipline Procedures*, <http://www.dpsk12.org/policies/Policy.aspx?-db=policy.fp3&-format=detail.html&-lay=policyview&-sortfield=File&-op=eq&Section=J&-recid=32967&-find> (last visited on Jan. 9, 2011).

⁷⁵ SAN FRANCISCO UNIFIED SCHOOL DISTRICT, *STUDENT AND PARENT/GUARDIAN HANDBOOK* 69, http://portal.sfusd.edu/data/pupil/Student_Handbook_English.pdf (last visited on Jan. 9, 2011).

⁷⁶ See Jefferson County, Alabama, *Advancement Project, Stop the Schoolhouse to Jailhouse Track*, <http://www.stopschoolstojails.org/content/jefferson-county-alabama> (last visited on Jan. 9, 2011).

⁷⁷ PowerPoint called "Jefferson County Family Court's School Offense Protocol," Coalition for Juvenile Justice Southern Region Conference, January 29, 2010, http://www.juvjustice.org/media/resources/public/resource_347.pdf (last visited on Jan. 24, 2011); *see also* PowerPoint called "Safe Schools, Fair Schools: A Community Dialogue about School Suspension in North Carolina," Judge Brian Huff, November 12, 2010, <http://ncpeo.org/wp-content/uploads/2010/11/Judge-Huff-North-Carolina-Nov-2010.ppt> (last visited on Jan. 24, 2011).

⁷⁸ See Clayton County, Georgia, Advancement Project, Stop the Schoolhouse to Jailhouse Track, <http://www.stopschoolstojails.org/clayton-county-georgia.html> (last visited on Jan. 9, 2011).

⁷⁹ A copy of the cooperative agreement is available at http://www.gpdsc.com/docs/resources-juvenile-cooperative_agreement_070804.pdf (last visited on Jan. 9, 2011).

⁸⁰ See ADVANCEMENT PROJECT, TEST, PUNISH, AND PUSH OUT: HOW ZERO-TOLERANCE AND HIGH STAKES TESTING FUNNEL YOUTH INTO THE SCHOOL-TO-PRISON PIPELINE 37 (2010), http://www.advancementproject.org/sites/default/files/publications/rev_fin.pdf (last visited on Jan. 9, 2011).

⁸¹ FLA. STAT. ANN. § 1006.13 (West 2009).

⁸² See ANNENBERG INSTITUTE FOR SCHOOL REFORM, MAKE THE ROAD NEW YORK, & NEW YORK CIVIL LIBERTIES UNION, *supra* note 65, at 8. See also Jackson, *supra* note 69, at 631-50.

⁸³ SCHOOL RESOURCE OFFICER PROGRAM MEMORANDUM OF UNDERSTANDING (MOU), *supra* note 11. The MOU agreement is in force from 1 July 2009 through 30 June 2014. The MOU states that “SRO’s are first and foremost law enforcement officers for the providing law enforcement agencies. SRO’s shall be responsible for carrying out all duties and responsibilities of a law enforcement officer and shall remain at all times under the control, through the chain of command, of the providing agency.”

⁸⁴ See N. Dickon Reppucci, Jessica Mayer, & Jessica Kostelnik, *Custodial Interrogation of Juveniles: Results of a National Survey of Police*, in POLICE INTERROGATIONS AND FALSE CONFESSIONS 67 (G. Daniel Lassiter & Christian A. Meissner, eds., 2010).

⁸⁵ See *e.g.*, Tennessee Code Annotated § 49-10-1304(b)(3)(A) (West 2010).

⁸⁶ See Student Safety Act – Learn More, New York Civil Liberties Union, <http://www.nyclu.org/schooltoprison/ssa/learnmore> (last visited on Jan. 27, 2011); Noah Rosenberg, *City Will Require Police to Report on School Arrests*, NEW YORK TIMES, December 21, 2010, http://www.nytimes.com/2010/12/21/nyregion/21schools.html?_r=1 (last visited on Jan. 27, 2011); Helon Zelon, *Student Safety Act Passes City Council*, CITY LIMITS, December 20, 2010, <http://www.citylimits.org/news/articles/4244/student-safety-act-passes-city-council> (last visited on Jan. 27, 2011).