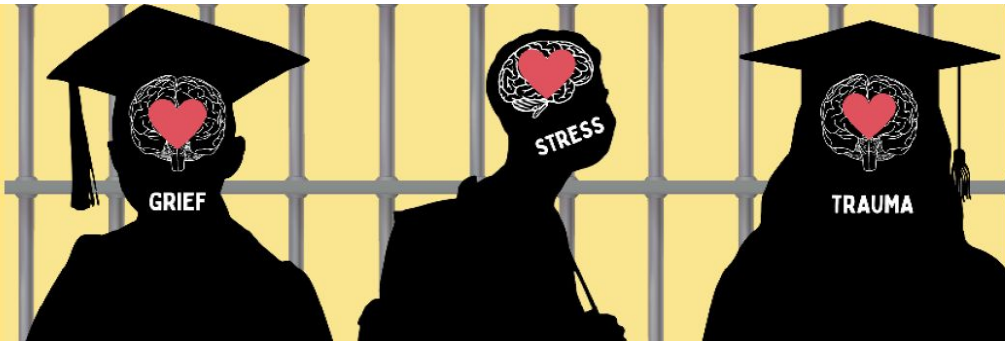


DISORDERLY AND DEFIANT: RETHINKING STUDENT BEHAVIOR & RESPONSES



ACLU

Southern California

Amir Whitaker
Senior Policy Counsel

ACLU
Pennsylvania

INTRODUCTION & PERSPECTIVE

- Educator
- Academic/ Researcher
- Advocate
- STPP Survivor/ Student



DISORDERLY CONDUCT AND DEFIANCE

- 23 Reasons for Suspension:in CA Education Code/Law
 - Willful Defiance Only Subjective Category
- Over 10 years of advocacy to end 'willful defiance' suspensions
 - Legislative battles: From AB 2242 veto to SB 274 success
- Keep students in school while protecting them from harmful school climates
- Importance of ongoing monitoring and accountability, Addressing Disproportionate
- [2018 Blog for Earlier Legislation](#)
- 2023 [Guardian Article](#)

The Guardian logo is displayed in white serif font on a dark blue rectangular background.

California students can no longer be suspended for 'willful defiance'. Could nationwide change be next?

REASONS WHY STUDENTS ARE SUSPENDED FOR "DEFIANCE"

Wearing a Hat or Hoodie

Disagreement

Candy/Chewing Gum

Talking Too Loud

Tardiness

Violating Dress Code

"Talking Back"

Dancing/Singing

Disengagement



12 WAYS SUSPENSIONS PUSH STUDENTS THROUGH THE SCHOOL-TO-PRISON PIPELINE

STUDENT IS **SUSPENDED** FROM SCHOOL



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12

REDUCED SCHOOL ATTENDANCE & LEARNING OPPORTUNITIES

REDUCED ENGAGEMENT AND SCHOOL CONNECTEDNESS

LOWER ACHIEVEMENT AND TEST SCORES

INCREASED LIKELIHOOD OF DROPPING OUT

INCREASED SOCIAL COSTS CREATING LESS PUBLIC RESOURCES

INCREASED GRADE RETENTION/REPEATING

POORER SCHOOL CLIMATE

INCREASED EXPULSION/TRANSFERRED TO ALTERNATIVE SCHOOL

INCREASED BEHAVIORAL PROBLEMS AND MISCONDUCT

INCREASED LIKELIHOOD OF ENTERING THE JUVENILE SYSTEM

INCREASED OPPORTUNITY FOR LACK OF SUPERVISION

INCREASED SUBSTANCE ABUSE

STUDENT IS MORE LIKELY
END UP IN PRISON



IN CALIFORNIA,
SUSPENDED STUDENTS
PRODUCE OVER
2.7 BILLION
IN LIFETIME COSTS
FROM ONE GRADUATING
CLASS

REFERENCES

6) Council of State Governments Justice Center. (2011). "Breaking school rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement."

7) American Psychological Association. "Are Zero Tolerance Policies Effective in Schools?: An Evidence-Based Review and Recommendations" (2010)

8) Council of State Governments Justice Center. (2011). "Breaking school rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement."

11) Skiba, Russell. "Zero tolerance and alternative discipline strategies." National Association of School Psychologists. Communique. 38(1), (2010)

6) Council of State Governments Justice Center. (2011). "Breaking school rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement."

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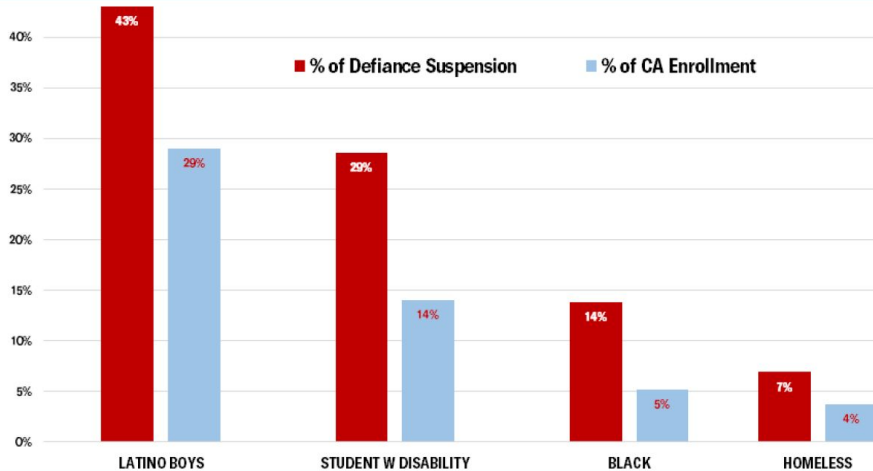
11) Skiba, Russell. "Zero tolerance and alternative discipline strategies." National Association of School Psychologists. Communique. 38(1), (2010)

6) Council of State Governments Justice Center. (2011). "Breaking school rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement."

CALIFORNIA STUDENTS LOST 42,000 DAYS OF SCHOOL DUE TO **DISRUPTION/DEFIANCE** SUSPENSIONS IN THE 2021-22 SCHOOL YEAR

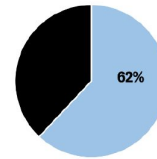
- Students are suspended for minor misbehaviors like violating the “**talking back**” or **dress code** rules.
- **Defiance suspensions** disproportionately harm **students of color/with disabilities** and deprives them of **learning**.
- Black and Latino boys in special education are **6%** of California's students, but **16%** of defiance suspensions.
- 427 school districts **did not suspend** for defiance but at least 6 school districts **ONLY suspended** for defiance.

DISPARITIES IN STUDENTS SUSPENDED FOR **DISRUPTION/DEFIANCE** ACROSS **CALIFORNIA** DURING THE 2021-22 SCHOOL YEAR

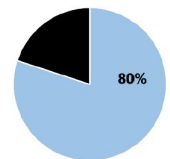


School districts enrolling 790,000+ of California's students have already **BANNED disruption/defiance** suspensions. **Los Angeles, San Francisco, Oakland, Pasadena, Azusa, and Washington Unified School** Districts made the commitment. Support SB 274 to ensure all CA students have the same protections.

LOW-INCOME STUDENTS



CA ENROLLMENT



SUSPENSIONS FOR DEFIANCE

POSITIVE IMPACTS OF **NOT SUSPENDING** STUDENTS FOR DEFIANCE FROM CALIFORNIA SCHOOL ADMINISTRATORS

82% reported **strengthened student connectedness** to peers and staff

60% reported a reduction in negative behaviors from students

37% of schools reported **increased attendance and ADA funds**

48% reported increased achievement and **academic performance**



7 REASONS WHY CA EDUCATORS **NO LONGER SUSPEND STUDENTS** FOR DEFIANCE

“Known research on **ineffectiveness of suspensions** when there are better **alternatives**.”

-Principal, Selma Unified School District

“Understanding **behavior** is a **skill** that must be **taught** just like other content areas.

-Franklin-McKinley Elementary School District

“We focused on **building relationships** and setting expectations for how students and adults will treat each other.”

-Campbell Union HSD

“We are not here **to deny a child his/her rights to a Free Public Education**... Everyone has their own perception of the term defiance... why send a student home to do nothing when they can stay in school and learn?”

-Assistant Dean, Oakland Unified School District

“The staff’s mutual understanding that suspensions are ultimately **not beneficial** for students”

-Mountain View Elementary School District

“We decided that suspensions meant that we are **giving up on a child**.”

-Administrator, Lynwood Unified School District

“Defiance can be handled [by] connecting the student to their **counselor or a social-emotional psychologist** on campus.”

- Oak Park USD



2022-2023 PA SUSPENSION DATA STATEWIDE

	Enrollment (%)	OSS Violence (% of Total)	OSS Drug/ Alcohol (% of Total)	OSS Tobacco (% of Total)	OSS Weapons (% of Total)	OSS Conduct (% of Total)	OSS Academic (% of Total)
White	61.30%	30.10%	52.60%	58.70%	42.20%	36.90%	23.50%
Black	14.50%	43%	21.40%	14.90%	27%	29.60%	46.90%
Latinx	14.30%	18.20%	17.30%	16.90%	21.80%	23.40%	23.20%

INADEQUATE SUPPORTS AND THE SCHOOL-TO-PRISON PIPELINE

LAW ENFORCEMENT, BUT NO SOCIAL WORKER:

Both state and federal data suggest Riverside County has one of the highest student-to-social worker ratios in the state, with just one social worker for every 6,132 students.³¹ A student was grieving their family member, and instead of receiving a social worker or mental health professional to heal, the student was placed on “voluntary probation”. In July 2018, the ACLU Foundations of California, the ACLU, and the National Center for Youth Law filed a lawsuit against Riverside County challenging the unconstitutional program. The parties ultimately settled the lawsuit by stopping the practice, and Riverside County agreed to provide an investment of nearly 8 million dollars over five years into community-based organizations that deliver critical programs aimed to help at-risk youth.

LAW ENFORCEMENT, BUT NO NURSE:

Kalila Williams is a student activist who fainted one day at her Los Angeles school. Instead of a nurse, health professional, or educator at Kahlila’s side when she woke up, it was a police officer. He immediately criminalized her and asked if she was on drugs or committing a crime instead of prioritizing her health. Kahlila shared her story with PEOPLE Magazine when she was awarded for PEOPLE’s Girls Changing the World in 2020. Her work in LAUSD helped reduce the school police budget by 25 million dollars.⁴¹



RIVERSIDE COUNTY YOUTH ACCOUNTABILITY TEAM REFERRAL			
Minor's Name:	[REDACTED]	D.O.B.:	[REDACTED] Age: 12 Gender: M
Current School:	Nicolet Middle School	District:	Banning Grade: 6
Reason for Referral: A concerned BUSD staff member called after speaking with parent.			
Problem Areas			
<input type="checkbox"/> Truancy	<input type="checkbox"/> Suspension	<input type="checkbox"/> Graffiti	<input type="checkbox"/> Absenteeism
<input type="checkbox"/> Gang Activity	<input type="checkbox"/> Weapons	<input type="checkbox"/> Defiance	<input type="checkbox"/> Disruptive Behavior
<input checked="" type="checkbox"/> Other: Does not want to attend school.			
Mental Health Issues			
<input type="checkbox"/> Alcohol	<input type="checkbox"/> Drugs	<input type="checkbox"/> Domestic Violence	<input type="checkbox"/> Abuse Issues
<input type="checkbox"/> Previous MH Intervention	<input type="checkbox"/> Currently receiving Services		
<input checked="" type="checkbox"/> Other: Anger/grief issues. Separated from father. Uncle died last year.			

OPPORTUNITIES TO SUPPORT STUDENTS **INSTEAD OF EXCLUDING**

Tampa Bay Times

Column: Why suspensions aren't the answer



By Amir Whitaker, special to the Tampa Bay Times

Published April 13, 2016

<https://www.tampabay.com/opinion/columns/column-why-suspensions-arent-the-answer/2273096/>

COLUMN WRITTEN IN 2016

REMEDIES AND SOLUTIONS TO ADDRESS EXCESSIVE SCHOOL DISCIPLINE

- 1** ELIMINATE SUSPENSIONS FOR VAGUE AND SUBJECTIVE CATEGORIES
- 2** POSITIVE BEHAVIOR INTERVENTIONS AND SUPPORTS
- 3** MULTI-TIER SYSTEM OF SUPPORTS
- 4** RESTORATIVE PRACTICES
- 5** SOCIAL EMOTIONAL LEARNING
- 6** ONGOING PROFESSIONAL DEVELOPMENT
- 7** INITIATIVES TO IMPROVE ACADEMIC ENGAGEMENT
- 8** IMPROVING LEARNING CONDITIONS AND SUPPORTS
- 9** REVAMPED DATA COLLECTION, ANALYSIS, AND MONITORING
- 10** BIAS REDUCTION AND CULTURAL COMPETENCY TRAININGS
- 11** NECESSARY INVESTMENT IN COUNSELORS, SOCIAL WORKERS, ETC
- 12** INITIATIVES TO IMPROVE SCHOOL CLIMATE
- 13** COORDINATED BEHAVIORAL PLANS
- 14** STUDENT THREAT ASSESSMENTS
- 15** EARLY WARNING SYSTEMS
- 16** TRAUMA-INFORMED CARE

REFERENCES

- 6) Council of State Governments, Justice Center. (2011). "Breaking school rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement."
- 7) American Psychological Association. "Are Zero Tolerance Policies Effective in Schools?: An Evidentiary Review and Recommendations" (2016)
- 8) Council of State Governments, Justice Center. (2011). "Breaking school rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement."
- 11)Skiba, Russell. "Zero tolerance and alternative discipline strategies." National Association of School Psychologists; Communique 38.1 (2010).
- 7) American Psychological Association. "Are Zero Tolerance Policies Effective in Schools?: An Evidentiary Review and Recommendations" (2016)
- 8) Council of State Governments, Justice Center. (2011). "Breaking school rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement."
- 11)Skiba, Russell. "Zero tolerance and alternative discipline strategies."





Reframing Classroom Management: A Toolkit for Educators

Effective classroom management is critical to supporting student engagement and achievement. You can spend hours crafting a creative, engaging, standards-aligned lesson, but that lesson will be of little use if taught in a chaotic or unsafe classroom. In a [2013 study](#), The New Teacher Project found that teachers identified classroom management mistakes as the most common barrier to great teaching. In a survey administered by Teaching Tolerance during spring 2016, over 45 percent of teachers who responded indicated that they had wanted to leave the profession at one point because of classroom management and behavioral issues.

Educators agree that classroom management is important, but our survey revealed that few teachers are explicitly trained beyond cursory traditional approaches (which can actually exacerbate behavior problems). This toolkit seeks to reframe classroom management by questioning the assumption that teachers must always lead and be in control and that students must always follow. This model supports teachers in responding to student behavior with the goal of keeping learning on track rather than keeping absolute control. It focuses on student development instead of punishment.

We created this model—and the accompanying recommendations—with input from over 1,200 teachers across the country.



https://www.learningforjustice.org/sites/default/files/TT_Reframing_Classroom_Management_Handouts.pdf

<https://www.learningforjustice.org/professional-development/webinars/classroom-management-consensus>

DISORDERLY AND DEFIANCE IN ARRESTS & REFERRALS

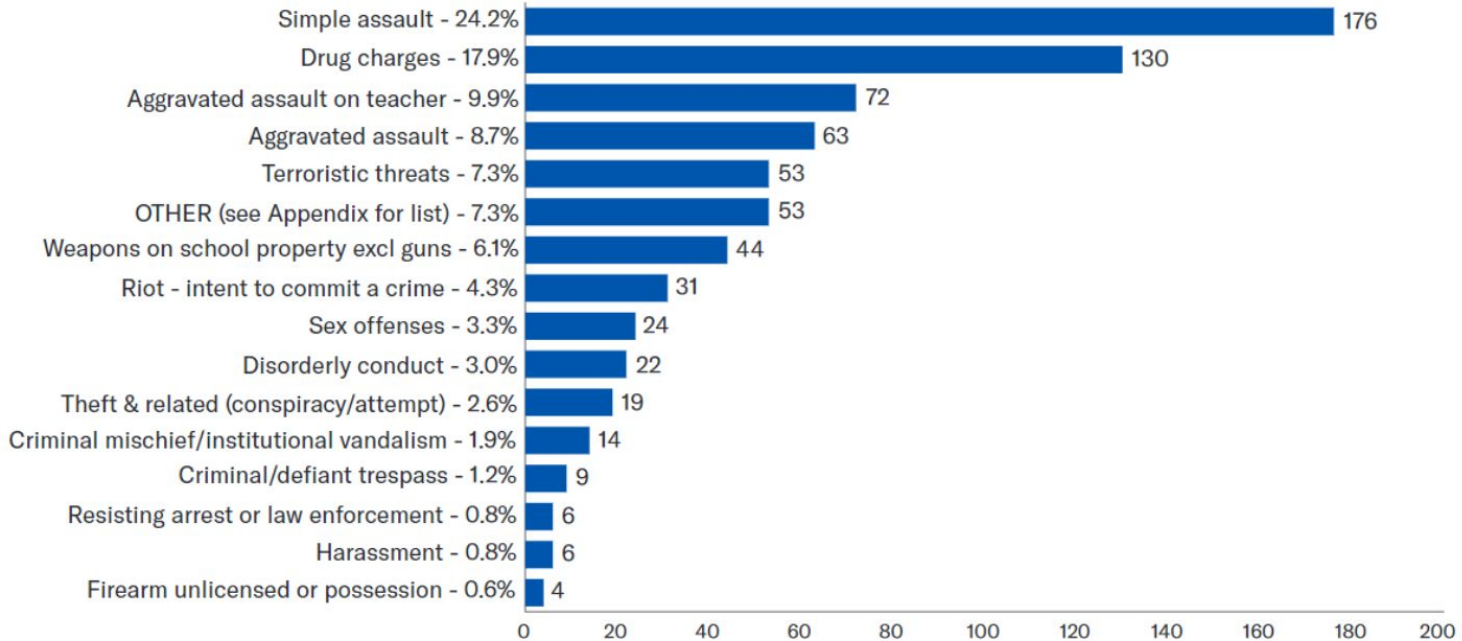
- Vague, Subjective, and “Catch All”
- Disorderly Conduct & School Police in Documentary (America Divided)

List of 25+ Common Student Behaviors Leading to School Arrests

CRIMINAL CHARGE	STUDENT BEHAVIOR
Disrupting school	<u>Spraying perfume;</u> ¹¹⁸ <u>fake burping;</u> <u>fake fart spray;</u> ¹¹⁹ <u>refusing to change a t-shirt depicting a hunting rifle;</u> ¹²⁰ <u>not following instructions;</u> ¹²¹ <u>criticizing a police officer</u> ¹²²
Disorderly conduct	<u>arguing;</u> ¹²³ <u>documenting bullying;</u> ¹²⁴ <u>Kicking a trashcan;</u> ¹²⁵ <u>cursing;</u> <u>refusing to leave the lunchroom</u> ¹²⁶
Assault	<u>Throwing a paper airplane;</u> ¹²⁷ <u>throwing a baby carrot;</u> ¹²⁸ <u>throwing skittles;</u> ¹²⁹ <u>fake fart spray</u> ¹³⁰
Weapons	<u>Science experiment (volcano);</u> ¹³¹ <u>science experiment;</u> ¹³² <u>paring knife;</u> ¹³³ <u>children's knife;</u> ¹³⁴
Battery on a police officer	<u>Five year-old with ADHD had a tantrum</u> ¹³⁵
Terroristic threats	<u>Eight year-old with a disability made a threatening statement to a teacher</u> ¹³⁶
Drug possession	<u>Carrying a maple leaf</u> ¹³⁷
Petit larceny	<u>Taking a milk carton</u> ¹³⁸
Felony forgery	<u>Buying lunch with a fake \$2 bill</u> ¹³⁹
Indecent exposure	<u>Wearing saggy pants</u> ¹⁴⁰



Arrest Charges by Category for Students (ages 10-18) - Allegheny County (2018-19)



Source: Allegheny County Juvenile Offense Trends Dashboard

- No “defiance” infraction code for suspensions in PA, but disorderly conduct and other minor/vague offenses result in referrals to police.
- “Minor offenses, such as simple assault (24.2%) and drug charges (17.9%), accounted for nearly half of all school-related arrests in Allegheny County.”

PA AMONG HIGHEST IN NATION: ARRESTS & REFERRALS

School Arrests for Boys of Color with Disabilities per 10,000

	Black Boy SWD Arrests per 10,000 Students	Latino Boy SWD Arrests per 10,000 Students	Native American Boys SWD Arrests per 10,000
NATION	64	29	53
AK	0	0	0
AL	70	26	0
AR	54	77	0
AZ	92	34	82
CA	46	13	39
CO	27	5	0
CT	195	171	0
DC	59	20	0
DE	107	59	0
FL	32	17	91
GA	80	50	0
HI	0	111	0
IA	279	64	233
ID	200	21	0
IL	98	42	714
IN	73	29	3333
KS	88	24	218
KY	54	8	0
LA	37	27	233
MA	17	18	339
MD	93	30	0
ME	0	0	0
MI	16	27	0
MN	100	37	31
MO	85	37	213
MS	39	25	435
MT	435	63	101
NC	26	6	24
ND	236	156	83
NE	48	23	90
NH	168	0	0
NJ	53	28	1143
NM	0	10	18
NV	117	46	68
NY	10	4	0
OH	31	13	5625
OK	72	23	22
OR	17	9	0
PA	199	138	1667
RI	95	34	667
SC	83	28	2500
SD	89	42	117

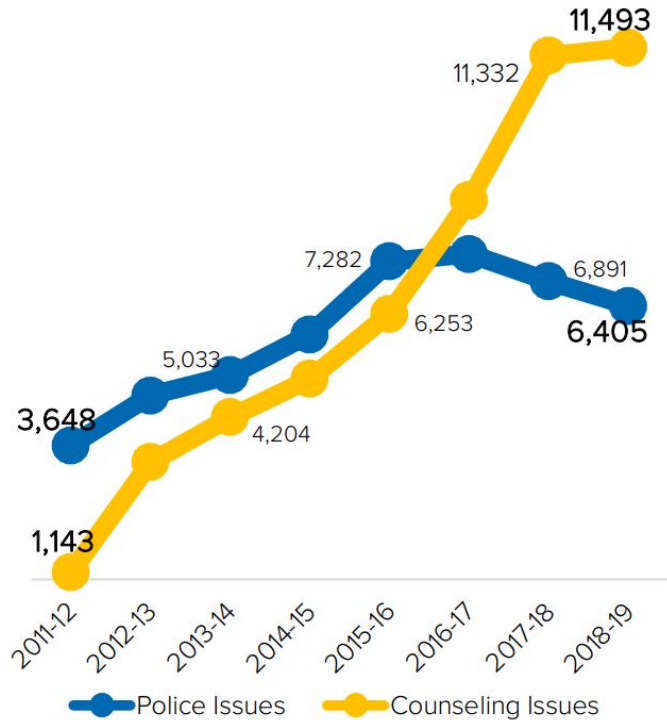
<https://www.aclu.org/publications/cops-and-no-counselors>

Law Enforcement Referral by Race and Disability Status by State per 10,000

STATE	Students Enrolled	Referrals to Law Enforcement	All Students	Students w/ Disabilities	Black	Latino	Native American	Pacific Islander	White	Asian	Students w/o Disabilities
NATION	49,977,268	235,483	47	113	93	45	88	50	35	16	38
AK	131,093	454	35	60	52	30	65	33	23	13	88
AL	744,506	2,191	29	63	47	17	30	18	21	11	25
AR	480,300	1,511	31	60	53	36	46	43	24	5	41
AZ	1,117,475	4,867	44	89	78	47	112	41	29	19	43
CA	6,217,689	28,313	46	117	130	47	71	63	32	16	37
CO	889,725	5,182	58	98	134	69	95	23	45	30	38
CT	531,922	2,493	47	131	97	68	63	24	28	19	45
DC	81,375	218	27	59	36	10	0	0	0	0	71
DE	136,411	1,700	125	266	208	109	249	37	80	52	58
FL	2,762,601	21,208	77	168	137	53	137	66	61	31	33
GA	1,745,762	6,720	38	84	58	26	64	53	26	10	29
HI	182,836	761	42	128	44	32	61	66	38	25	47
IA	499,264	2,779	56	127	205	53	80	58	45	30	35
ID	291,914	952	33	89	54	45	125	80	27	10	24
IL	2,005,522	9,000	45	107	95	52	80	20	26	16	35
IN	1,019,004	2,926	29	64	49	22	41	19	26	4	33
KS	486,050	2,245	46	108	142	43	86	15	36	23	47
KY	681,279	1,809	27	108	63	29	31	0	21	9	44
LA	716,071	1,657	23	63	34	17	41	0	14	3	40
MA	946,424	1,513	16	34	26	29	7	14	12	7	28
MD	893,472	4,610	52	129	84	52	96	46	27	10	27
ME	177,903	833	47	99	53	55	28	0	47	28	54
MI	1,509,170	3,652	24	57	37	25	70	9	21	7	49
MN	864,466	6,128	71	195	206	83	177	33	43	29	39
MO	915,033	5,355	59	125	119	48	86	29	46	13	63
MS	490,208	1,392	28	52	36	15	14	0	22	4	46
MT	148,087	1,121	76	205	197	77	183	40	58	46	69
NC	1,551,207	6,786	44	119	78	42	32	37	26	18	42
ND	110,022	609	55	138	92	88	121	93	45	21	75
NE	310,677	1,502	48	106	95	58	130	0	39	22	36
NH	181,916	1,464	80	147	176	51	116	74	84	24	42
NJ	1,358,709	3,511	26	59	53	29	16	5	18	7	38
NM	335,816	1,291	38	85	35	27	118	61	35	19	34
NV	465,312	2,728	59	142	131	46	177	67	55	16	40
NY	2,725,551	8,218	30	68	64	30	40	5	22	9	39
OH	1,719,439	3,518	20	46	34	19	6	17	17	11	41
OK	690,304	3,806	55	99	114	40	53	138	50	31	52
OR	566,070	1,320	23	49	28	25	77	27	22	5	38
PA	1,693,260	21,860	129	278	342	194	151	63	72	55	47
RI	141,210	974	69	113	189	136	450	0	21	9	40
SC	757,281	3,192	42	90	67	18	46	45	30	15	42
SD	137,100	1,069	78	188	201	116	201	0	51	41	63

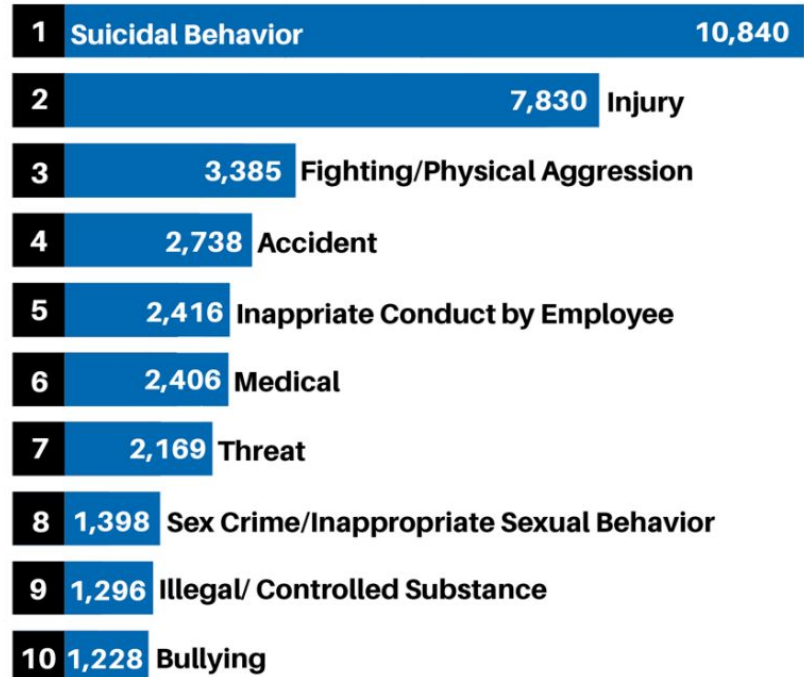
POLICE ISSUES VS. COUNSELING ISSUES

LAUSD 2011-2019



TOP TEN REPORTED ISSUES ON ISTAR

LAUSD 2018-2019



SCHOOL DISTRICTS HAVE SUCCESSFULLY REMOVED SCHOOL POLICE

Defunding Police: LA Schools Redirected Money to Hiring Mental Health Staff



Aaricka Washington
March 24, 2022 · 6 min read



Kyla Payne distinctly remembers being on edge any time she entered Dorsey High School in Los Angeles. The 16-year-old felt uncomfortable being monitored by campus police officers who seemed to be intent on finding crimes and rule violations that weren't there, Payne said.

"I know for me and my friends, it was difficult trying to live just as a high school student and live freely and be creative when you have these figures on your shoulders just waiting to get something out of you," said Payne, a high school junior.

- <https://blackorganizingproject.org/wp-content/uploads/2021/07/The-Peoples-Plan-2019-Online-Reduced-Size.pdf>
- <https://www.yahoo.com/video/defunding-police-la-schools-redirect-ed-140100765.html>

Chicago Board of Education votes to remove school resource police officers from CPS schools

Thursday, February 22, 2024 8:48PM

Part 1: Divest from School Policing by Eliminating the Oakland School Police Department by 2020 and Barring any Future Contracts with Law Enforcement

WHY IS THIS SOLUTION IMPORTANT?

- 🔍 In the Bay Area and nationally, the racist institutional history and current realities of policing in communities of color make school police an inherent part of the school-to-prison pipeline for children and youth of color.
- 🔍 OUSD data on disproportionate enforcement and school policing impacts show that Oakland's Black youth are currently being harmed by school policing.
- 🔍 School policing contradicts OUSD's values of equity, sanctuary and putting students first. It directly undermines OUSD's commitment to restorative justice and trauma-informed practices.
- 🔍 Growing national research shows that police presence in schools does not increase school safety. Further, SROs have been shown to increase school reliance on arrests to address discipline, to interfere with education, and to have disproportionate negative impacts on students of color and students with disabilities. Schools with police have been revealed to have higher suspension rates and longer suspension durations.
- 🔍 Of 18 school districts in Alameda County, OUSD is the only district to have its own internal police department, costing over \$2.3m annually not including an additional \$4m+ spent on security personnel that contributes to the overall criminalizing and punitive school discipline climate.
- 🔍 Reinvesting the \$2.3m+ school police budget into increased supports for the whole child and for students with disabilities will more effectively provide for student safety.
- 🔍 A growing number of school districts have eliminated, reduced or are considering eliminating or reducing police presence in schools because of equity concerns. These include Coachella Valley, Pomona, Sacramento, and Piedmont California as well as Toronto, the largest school district in Canada.

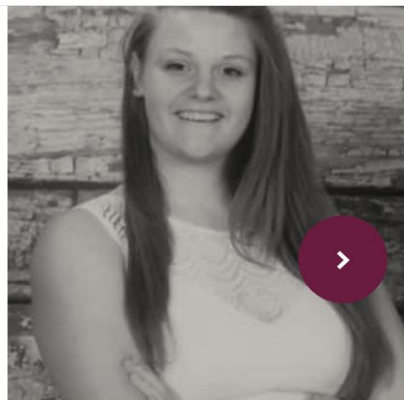
IMPLEMENTATION NEXT STEPS:



Niya Kenny >



D. S. >



S. P. >

. CYAP v. Wilson

<https://www.aclu.org/cases/cyap-v-wilson#legal-documents>

The ACLU found that hundreds of students – some as young as 7 years old – were being charged under far-reaching and nebulous “disturbing schools” and “disorderly conduct” laws for behaviors such as loitering, cursing, or undefined “obnoxious” actions on school grounds. The statutes also had a chilling effect on students who spoke out against policing abuses in schools. Black girls and boys were nearly four times as likely to be targeted under the law.

The ACLU challenged the statutes on grounds they violate the U.S. Constitution’s due process protections. The complaint, *Kenny v. Wilson*, was filed in the U.S. District Court of South

QUESTIONS? LINKS

- Full Report
 - [https://aclualaction.org/wp-content/uploads/2022/01/2022 State of Student Wellness Report .pdf](https://aclualaction.org/wp-content/uploads/2022/01/2022%20State%20of%20Student%20Wellness%20Report.pdf)
- PA data tool
 - <https://www.tinyurl.com/aclupatool>
- People's Plan for Police-Free Schools
 - <https://blackorganizingproject.org/wp-content/uploads/2021/07/The-Peoples-Plan-2019-Online-Reduced-Size.pdf>
- Classroom Consensus: Reframe Classroom Management
 - https://www.learningforjustice.org/sites/default/files/general/TT_Reframing_Classroom_Managment_Handouts.pdf
- Blog
- <https://www.aclu.org/blog/racial-justice/race-and-inequality-education/why-school-psychologists-are-worried-about-mental>
- <https://youthtoday.org/2020/03/the-risks-of-threat-assessment-to-students-are-dire>

