

Rethinking the School-Law Enforcement Relationship

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The Emergence of School Policing Programs

- Embedding police in schools, vs. call them in to address emergencies, is an invention of the past 25 or so years
- The involvement of police in routine school and disciplinary matters has dramatically expanded
- The traditional notion that police are to be involved only when there is a risk of serious harm or injury is largely out the door
- A [2005 national survey of schools](#), and the law enforcement agencies that provided services to the schools, found that in very few cases was the level of violence in the school the key reason for starting an SRO program. About 4% of both school and law enforcement agencies cited this as the reason for starting the SRO program.

School Policing Today

- The increase in the use of police has not brought with it increased accountability and transparency in how those programs are operated
- School policing is a lightly regulated activity, if at all.
- Lack of accountability: There are few enforceable rules that protect students' rights, restrict harmful physical contact, limit when police can intervene in school matters, or that govern student searches and interrogations
- Lack of Transparency: very limited quality research on the impact of school policing programs; inaccurate and incomplete arrest data; virtually no broad-scale data on citation and ticketing
- Student arrests and referrals to law enforcement have increased in recent years
- PA has among the highest rates in the country, esp. for Black students and Students with Disabilities.

Pennsylvania Law

- PA law does not require districts to host school policing or SRO programs
- The state-mandated MOU specifies a small list of incidents for which prompt notification of police by school staff is required
- From available data, we know that the bulk of the reasons students are arrested do not fall on this list
- In other words, schools typically use police in ways that go beyond legal mandates
- Use of police often supplants other student support services and legal requirements (under IDEA); also violates FERPA



AN OVERVIEW OF EXCLUSIONARY DISCIPLINE PRACTICES IN PUBLIC SCHOOLS FOR THE 2017-18 SCHOOL YEAR

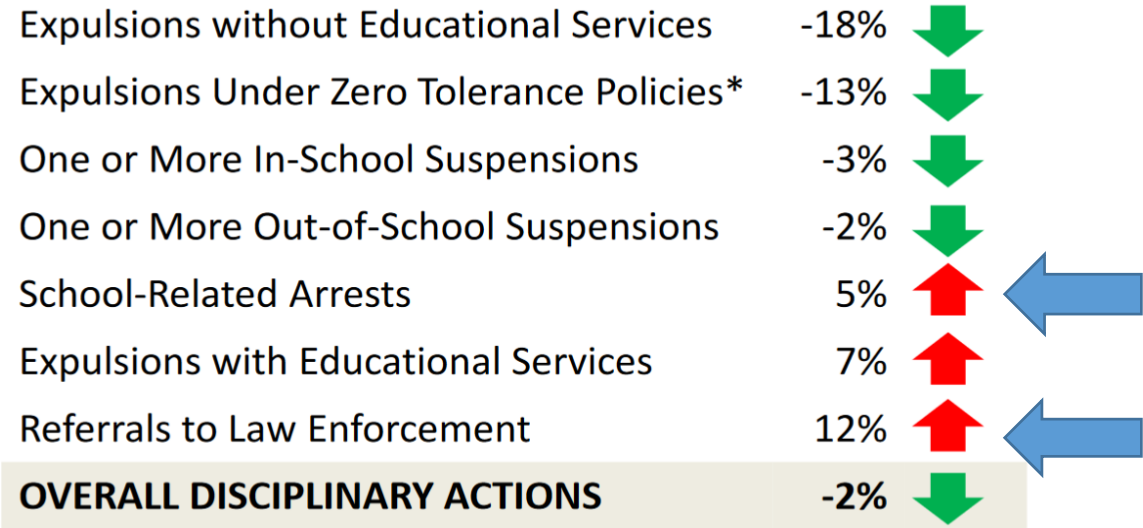
U.S. DEPARTMENT OF EDUCATION

Office for Civil Rights

Civil Rights Data Collection

June 2021

Change in Exclusionary Discipline Practices from 2015-16 to 2017-18



From the 2015–16 to 2017–18 school year, there was an overall 2% decline in the use of exclusionary discipline practices in public schools in the U.S.

However, three types of discipline practices increased: 1) school-related arrests; 2) expulsions with educational services; and 3) referrals to law enforcement.

*A zero-tolerance policy requires mandatory expulsion of any student who commits one or more specified offenses (e.g., offenses involving guns or other weapons, or violent offenses).

Sources: U.S. Education Department, Office for Civil Rights, Civil Rights Data Collection, 2017-18 State and National Estimations, released June 2021, available at <https://ocrdata.ed.gov/estimations/2017-2018>.
U.S. Education Department, Office for Civil Rights, Civil Rights Data Collection, 2015-16 State and National Estimations, available at <https://ocrdata.ed.gov/estimations/2015-2016>.

Investigating inequality

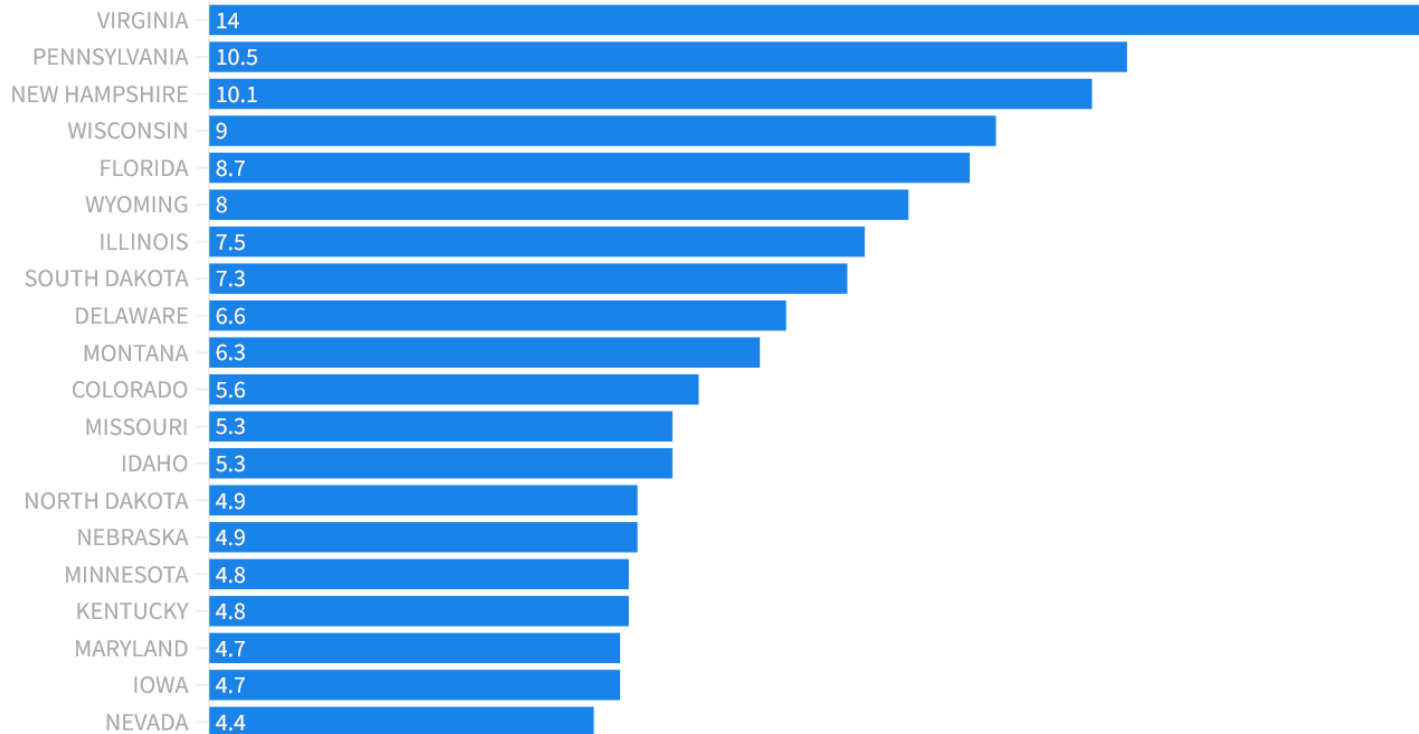
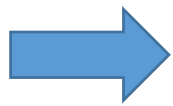
Nationally, 4.5 students are referred to law enforcement for every 1,000 students enrolled in school. But that rate varies widely among states.

In every state, the rate at which students with disabilities were referred to law enforcement was higher than the rate for all students.

In 46 states, the rate at which Black students were referred to law enforcement was higher than the rate for all students.

TOTAL DISABLED BLACK

TOTAL



IMPLEMENTATION GUIDE

Adopt a policy restricting police involvement in ordinary school discipline for low-level infractions.

What problem this addresses

- Incidents sometimes escalate when the intervening adult is an officer.
- Police become involved in everyday school matters that are not dangerous crimes, increasing the likelihood of a student having justice system contact and a law enforcement record.
- Police make or influence decisions best made by educators.
- Conflicts or infractions may have other causes – such as trauma, unfair treatment, or family problems – that are best addressed by adults who are trained to support young people.

Who would act

- School district administrators and school board members can set a policy limiting the involvement of police.

How

- Restrict police involvement in minor matters.
- Change the code of conduct to reduce the range of infractions that could result in law enforcement referral, especially focusing on low-level infractions that disproportionately impact Black students and students with disabilities.

Benefits

- Students are not denied education for low-level infractions, and fewer students are impacted by the juvenile justice system. These situations are better handled by adults who have trusting relationships with the youth involved, which enables them to get to the root of problems and conflicts more easily.

<https://www.endzerotolerance.org/philadelphia-police-low-level>

THE SCHOOL DISTRICT OF PHILADELPHIA
OFFICE OF SCHOOL SAFETY
440 North Broad Street – Suite 224
Philadelphia, Pa. 19130

Chief Inspector Carl W. Holmes
Chief of School Safety

Telephone (215) 400-4710
FAX (215) 400-4711

Date: March 10, 2014

To: All School Administrators and All School Police Personnel

From: Cmdr. Augustine W. Pescatore, R.O.C. South
Cmdr. Craig G. Johnson, R.O.C. North

SUBJECT: **School Police Response to Code of Conduct Offenses**

Effective immediately, School Police Officers will not respond to, or remove students from classrooms, cafeterias, restrooms etc., for calls pertaining to the following Level 1 Code of Student Conduct offenses:

- Failure to follow classroom rules/disruption
- Dress code violation
- Failure to carry hall-pass/appropriate ID
- Failure to participate in class/unpreparedness
- Truancy/excessive tardiness/cutting class
- Possession of beepers/pagers/cell phones/other electronic devices
- Possession of other inappropriate personal items
- Public display of affection/inappropriate touching
- Inappropriate use of electronic devices
- Verbal Altercations

These infractions are not criminal offenses; they are classroom/student management issues. Numerous instances of assaults on school police officers and staff occur as a direct result of the officers' intervention into non-criminal student/classroom management issues.

Offenses that are not criminal offenses are not to be treated as such.

Limit the immediate notification of local law enforcement to infractions on the mandatory reporting list.

What problem this addresses

- Administrators and school boards often report minor incidents to the police, triggering excessive contact between police and students. Internal school intervention and support processes would handle these situations better.

Who would act

- Local school boards have this power under the Pennsylvania School Code.
- The Pennsylvania State Board of Education should issue a clarification on this policy to school districts.

How

- Issue policy guidance clarifying that current law requires immediate incident notification of local law enforcement only for infractions on the mandatory reporting list.
- Revise the Model Memorandum of Understanding between districts and law enforcement.

Benefits

- Fewer students referred to law enforcement for minor infractions.
- May help reduce racial and disability bias in referrals to law enforcement.

Protect students who receive services under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 from inappropriate law enforcement referrals.

What problem this addresses

- Students are referred to law enforcement for conduct that is a manifestation of their disability.

Who would act

- School district staff have obligations.
- Monitoring by the Pennsylvania Special Education Bureau is required.
- Parents and guardians have the right to participate in decisions.

How

- Ensure that local education agencies conduct the assessment and intervention protocols specified in IDEA, such as manifestation reviews, functional behavioral assessments, and behavior intervention plans.
- Ensure that local education agencies properly identify and serve students eligible for supports under Section 504 of the Rehabilitation Act of 1973

Benefits

- The root of the behavior is addressed, and the student is provided with needed supports and interventions.
- More students with disabilities remain in school and out of the juvenile justice system.

Disabling Inequity

report from the Center for Civil Rights Remedies at The Civil Rights Project at UCLA

QUESTIONS

- Did the misconduct warrant a referral of students with IEPs to law enforcement?
- Did students with disabilities (served under IDEA) who were referred to law enforcement ever have functional behavioral assessments and/or a behavioral intervention plan? Were these measures taken before or after the referrals?
- What is the number and percentage of students with disabilities (under IDEA) who have had a manifestation determination meeting? What were the determinations from those meetings? What are the referral and arrest rates for students who have had such meetings?

<https://www.civilrightsproject.ucla.edu/research/k-12-education/special-education/disabling-inequity-the-urgent-need-for-race-conscious-resource-remedies/final-Report-03-22-21-v5-corrected.pdf>

Adopt a moratorium on summary citations issued at school.

What problem this addresses

- These infractions are by definition minor, and they would not ordinarily justify an arrest.
- Young people get a record in the criminal justice system, which can negatively impact their future.

Who would act

- Policy set by school district administrators or school board.
- Incorporate the policy in MOUs with law enforcement.
- School districts have direct authority per Pennsylvania School Code, and they can codify these policies in MOUs with law enforcement.

How

- By administrative action of a school district:
- School district police officers are no longer permitted to issue citations.
 - Districts include a ban in any agreements with law enforcement.

Benefits

- Fewer kids with criminal records and with fines.

Eliminate the everyday presence of police in schools.

What problem this addresses

- Schools with police in the building tend to be more focused on law and order and less focused on students' social and emotional needs.

Who would act

- School district administrators or school board.
- Pennsylvania law does not require schools to have a standing law enforcement presence in schools.

How

- Cancel school resource officer contracts with local law enforcement.
- Eliminate district sworn law enforcement positions.

Benefits

- Fewer children referred to law enforcement for minor infractions.
- The root of the behavior is addressed, and the student is provided with needed supports and interventions.

Reinvest funds allocated for police into student support resources.

What problem this addresses

- School districts do not adequately invest in student support services that create better school environments. Most schools do not have enough school psychologists, nurses, counselors, social workers, and non-teaching assistants.

Who would act

- School districts have direct authority over spending and budget decisions in the Pennsylvania School Code.

How

- Adopt school budgets reallocating funds formerly spent on law enforcement.
- Apply for state grants for alternative school safety programs for restorative justice, social emotional learning, conflict resolution, etc.
- Reallocate funds formerly used for law enforcement to hire additional school counselors, social workers, and psychologists.

Benefits

- Students have more opportunities to develop relationships with supportive adults.
- The root of the behavior is addressed by professionals who understand adolescent behavior/development.

Accurately collect and publicly report arrest, referral, and citation data.

What problem this addresses

- Inaccurate data on student contact with law enforcement and arrests make it impossible to spot any issues with arrests and referrals.

Who would act

- Both local education agencies (such as school districts, charters, Intermediate Units, and career and technical education) and the Pennsylvania Department of Education (PDE) have reporting responsibilities under the Every Student Succeeds Act (ESSA), the Civil Rights Data Collection, and Pennsylvania's Safe Schools Act (known as Act 104). Also, PDE's Office of Safe Schools is required to collect such data.

How

- Data should be collected and reported at the intersection of race, gender, age, disability, foster youth status, and school in a disaggregated format that is consistent with Civil Rights Data Collection reporting requirements.
- Collect and publicly report data on summary citations issued to students in school-related matters.

Benefits

- The public and district staff gain an accurate picture of how students are impacted by justice system involvement.

Update ESSA Annual Report Cards.

What problem this addresses

- Pennsylvania ESSA report cards for 2017 through 2020 still use old data, from 2015-16, even though more recent data are available.

Who would act

- Under ESSA, state and local education agencies are required to report this data annually for the most recently completed school year by December 31.

How

- Pennsylvania Department of Education and local education agencies already collect this data for annual Safe Schools reports and the biennial CRDC.
- Best practice: Require local education agencies to collect one set of data on law enforcement involvement and arrests in a form that is consistent with the requirements of the CRDC – disaggregated by race/ethnicity, gender, disability status, and English proficiency status.

Benefits

- This would simplify data collection work for education agencies and increase the likelihood of consistent data across different collections.