



March 1, 2021

## Via Electronic Delivery

Anne R. Kaiser, Chair  
Alonzo T. Washington, Vice Chair  
House Ways and Means Committee  
Maryland House of Delegates  
House Office Building, Room 131  
6 Bladen Street  
Annapolis, Maryland 21401

RE: House Bill 1089: Primary and Secondary Education – Expansion of Mental Health Services and Prohibition of School Resource Officers (Police-Free Schools Act) – **Favorable**

Dear Chairperson Kaiser and Vice Chairperson Washington:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (LDF),<sup>1</sup> we appreciate the opportunity to submit written testimony in support of House Bill (HB) 1089, Police-Free Schools Act, which prohibits local school systems from contracting with law enforcement agencies or establishing their own police forces, and requires that security personnel be unarmed and not have arrest powers.<sup>2</sup> Importantly, HB 1089 funds local school systems to hire school psychologists, social workers, counselors, and behavioral specialists, to expand restorative approaches, provide wraparound services, and develop trauma-informed practices.<sup>3</sup> Investments such as these are critical to create positive school climates that provide the appropriate supports students need to thrive and to prevent the criminalization of youth.<sup>4</sup> LDF urges this Committee to vote favorably on HB 1089.

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<sup>1</sup> Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in the areas of education, economic justice, political participation, and criminal justice. It has been a separate organization from the NAACP since 1957. LDF's work to address racial inequities in education and police violence and misconduct dates back to its inception. *See, e.g., Brown v. Bd of Education of Topeka, KS* 347 U.S. 483 (1954); *see also, Shepherd v. Florida*, 341 U.S. 50 (1951) (reversing the convictions of Black men accused of raping a white woman in 1949; the men were brutally beaten by sheriff's deputies to force confessions). Today, LDF's Justice in Public Safety Project uses litigation, policy advocacy, research, community organizing, and strategic communications to: (1) ensure accountability for police brutality and misconduct through community oversight and changes to laws and policies; (2) promote policing and public safety practices that eliminate the pernicious influence of racial and other biases; and (3) support a new paradigm of public safety that drastically reduces the presence of armed law enforcement in communities of color.

<sup>2</sup> *See* Primary and Secondary Education – Expansion of Mental Health Services and Prohibition of School Resource Officers (Police-Free Schools Act), H.B. 1089, 2021 Leg., 441st Sess. § 7-126 (MD 2021) [hereinafter *Police-Free Schools Act*].

<sup>3</sup> *Id.* at § 7-1511.1

<sup>4</sup> *See* Amir Whitaker, *et. al., Cops and No Counselors How the Lack of School Mental Health Staff Is Harming Students*, ACLU (2020), available at <https://www.aclu.org/report/cops-and-no-counselors>; Cara McClellan, *Our Girls, Our Future: Investing in Opportunity & Reducing Reliance on the Criminal Justice System in Baltimore*, NAACP Legal Defense and Educational Fund, Inc. 2 (2018), available at [https://www.naacpldf.org/wp-content/uploads/Baltimore\\_Girls\\_Report\\_FINAL\\_6\\_26\\_18.pdf](https://www.naacpldf.org/wp-content/uploads/Baltimore_Girls_Report_FINAL_6_26_18.pdf).

## I. **HB 1089 Appropriately Removes Police Officers From Maryland Schools Where They Have Used Excessive Force and Disproportionately Arrested Black Students, Often for Infractions that Should Be Addressed by School Staff**

In May 2020, the world watched George Floyd, an unarmed Black man, slowly die as a Minneapolis police officer forced his knee into Mr. Floyd's neck while he lay prone on the ground.<sup>5</sup> The incident sparked worldwide mass demonstrations demanding police accountability and an end to police brutality and racially biased policing.<sup>6</sup> Police violence, however, is not limited to the nation's streets. It also occurs in schools. For example, in 2015, a South Carolina school resource officer (SRO) flipped and dragged a Black student from her chair in a classroom.<sup>7</sup> In 2019, a New Mexico SRO wrestled an 11-year-old Black girl to the ground.<sup>8</sup> In the same year, a Florida SRO arrested a 6-year-old Black girl, cuffing her hands with zip ties.<sup>9</sup> And, in January of 2021, another Florida SRO body-slammed a Black student to the ground.<sup>10</sup> Indeed, Maryland school districts have also had to address multiple incidents of school police abuse and violence against students. These incidents include:

- In 2016, a Baltimore City school police officer was caught on video slapping and kicking a 16-year-old student. The officer pled guilty to one count of second-degree assault.<sup>11</sup>
- In 2013, a Prince George's County school police officer punched and arrested a high school student. The officer was convicted of second-degree assault, misconduct in office, and reckless endangerment.<sup>12</sup>

Police presence in Maryland schools has not only led to police violence against youth, but it has also resulted in racial disparities in school-based arrests. During the 2018-19 school year, Maryland law enforcement officers made 3,141 arrests in schools statewide, 84% (2,628) of which were by school police officers.<sup>13</sup> Black students comprised 56% of those who were arrested while making up only 34% of the state's student population.<sup>14</sup> Meanwhile, arrests of white students comprised a smaller percentage — 28%— than their 37% share of the student population.<sup>15</sup>

<sup>5</sup> Evan Hill, *et. al.*, *How George Floyd Was Killed in Police Custody*, N.Y. TIMES (May 31, 2020), <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html>.

<sup>6</sup> Jaiver C. Herndandez, *et. al.*, *Global Anger Grows Over George Floyd Death, and Becomes an Anti-Trump Cudgel*, N.Y. TIMES (June 1, 2020), <https://www.nytimes.com/2020/06/01/world/asia/george-floyd-protest-global.html>.

<sup>7</sup> Meg Kinnard, *Deputy who tossed SC high school student won't be charged*, ASSOCIATED PRESS (Sept. 2, 2016), <https://apnews.com/article/15d2d83af257441497a59ceb89e5d882>.

<sup>8</sup> Joshua Kellogg, *Former Farmington cop pleads no contest to abusing middle school student in 2019*, Farmington Daily News (Dec. 9, 2020), <https://www.daily-times.com/story/news/crime/2020/12/09/former-farmington-police-officer-pleads-no-contest-abusing-farmington-student/3866254001/>.

<sup>9</sup> Ben Kessler, *Video shows police arresting 6-year-old girl at school*, NBC NEWS (Feb. 25, 2020), <https://www.nbcnews.com/news/us-news/video-shows-police-officer-arresting-6-year-old-girl-school-n1142356>.

<sup>10</sup> Meredith Deliso, *Florida teen body-slammed by school resource officer 'traumatized,' family says*, ABC NEWS (Jan. 31, 2021), <https://abc7ny.com/florida-teen-body-slammed-school-resource-officer-slams-girl-police-slam-taylor-bracey/10183813/>.

<sup>11</sup> Justin Fenton, *Baltimore school police officer pleads guilty to slapping student*, BALT. SUN (Feb. 14, 2017), <https://www.baltimoresun.com/news/crime/bs-md-ci-school-police-assault-plea-20170214-story.html>.

<sup>12</sup> WUSA 9 Staff, *et. al.*, *PGPD officer sentenced for assaulting HS student*, WUSA 9 (June 2, 2015), <https://www.wusa9.com/article/news/local/suitland/pgpd-officer-sentenced-for-assaulting-hs-student/203292404>.

<sup>13</sup> Maryland State Department of Education, *Maryland Public Schools Arrest Data*, MARYLAND STATE DEP'T OF ED. (2020) <http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestDataSY20182019.pdf>.

<sup>14</sup> Donna St. George, *As activists try to get police out of schools, Maryland arrest data shows racial gap*, WASH. POST (June 24, 2020), [https://www.washingtonpost.com/local/education/as-activists-try-to-get-police-out-of-schools-maryland-arrest-data-shows-racial-gap/2020/06/24/8056414e-b598-11ea-a8da-693df3d7674a\\_story.html](https://www.washingtonpost.com/local/education/as-activists-try-to-get-police-out-of-schools-maryland-arrest-data-shows-racial-gap/2020/06/24/8056414e-b598-11ea-a8da-693df3d7674a_story.html).

<sup>15</sup> *Id.*

National research shows that while there is no evidence that students of color misbehave more than their white peers,<sup>16</sup> students of color are often disproportionately disciplined for minor, subjective offenses such as “disobedience and disruptive behavior.”<sup>17</sup> Decisions to discipline for these offenses are left to the discretion of school staff, administrators, and school police who may be more likely to negatively interpret the behavior of certain racial and ethnic groups based on their own conscious or unconscious bias.<sup>18</sup>

Students who attend schools where a school resource officer is present are at risk of being referred to law enforcement for typical childhood behaviors that should be handled by educators using developmentally appropriate, pedagogically sound interventions.<sup>19</sup> For example, nationwide, police have arrested students, some as young as five years old, for throwing a tantrum, texting, passing gas, violating the school dress code, arriving late, bringing a cell phone to school, or having a nonviolent verbal disagreement with a schoolmate.<sup>20</sup> In Maryland, during the 2018-19 school year, many school-based arrests were for typical childhood behaviors, such as fighting (732), disruption (260), disrespect (25) and trespassing (25).<sup>21</sup>

Police abuse and racial disparities in school-based arrests have led to statewide and national calls for police-free schools and investments in programs and services that are proven to improve school climate.<sup>22</sup> HB 1089 answers this call by prohibiting schools from contracting with law enforcement agencies or establishing their own police forces, by requiring remaining security personnel to be unarmed and not authorized to make arrests, and by making the necessary investments to improve Maryland schools’ climates. We urge the Committee to vote favorably on HB 1089.

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<sup>16</sup> See U.S. DEP’T OF EDUC. OFFICE FOR CIVIL RIGHTS, DEAR COLLEAGUE LETTER ON THE NONDISCRIMINATORY ADMIN. OF SCH. DISCIPLINE (2014), available at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html> (citing multiple studies and articles supporting the conclusion that “substantial racial disparities . . . are not explained by more frequent or more serious misbehavior by students of color.”); accord Russell J. Skiba, et al., *Are Black Kids Worse? Myths and Facts About Racial Differences In Behavior: A Summary of the Literature*, INDIANA UNIVERSITY, March 2014, available at: [http://www.indiana.edu/~atlantic/wp-content/uploads/2014/03/African-American-Differential-Behavior\\_031214.pdf](http://www.indiana.edu/~atlantic/wp-content/uploads/2014/03/African-American-Differential-Behavior_031214.pdf).

<sup>17</sup> NAACP Legal Defense and Educational Fund, Inc., *Locked Out of the Classroom: How Implicit Bias Contributes to Disparities in School Discipline* (2017), available at [http://www.naacpldf.org/files/about-us/Bias\\_Reportv2017\\_30\\_11\\_FINAL.pdf](http://www.naacpldf.org/files/about-us/Bias_Reportv2017_30_11_FINAL.pdf); KIRWIN INST., RACIAL DISPROPORTIONALITY IN SCHOOL DISCIPLINE (2014), available at <http://kirwaninstitute.osu.edu/wp-content/uploads/2014/02/racial-disproportionality-schools-02.pdf>; Janel A. George, *Stereotype and School Pushout: Race, Gender, and Discipline Disparities*, 68 ARK. L. REV. 101 (2016); David Simson, *Exclusion, Punishment, Racism and Our Schools: A Critical Race Theory Perspective on School Discipline*, 61 UCLA L. Rev. 506 (2014).

<sup>18</sup> *Id.*

<sup>19</sup> Jason Nance, *Students, Police, and the School-to-Prison Pipeline*, UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW, 2016, available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2577333](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2577333).

<sup>20</sup> *Id.*

<sup>21</sup> See Maryland State Department of Education, *Maryland Public Schools Arrest Data*, MARYLAND STATE DEP’T OF ED. (2020) <http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestDataSY20182019.pdf>.

<sup>22</sup> Donna St. George, *As activists try to get police out of schools, Maryland arrest data shows racial gap*, WASH. POST (June 24, 2020), [https://www.washingtonpost.com/local/education/as-activists-try-to-get-police-out-of-schools-maryland-arrest-data-shows-racial-gap/2020/06/24/8056414e-b598-11ea-a8da-693df3d7674a\\_story.html](https://www.washingtonpost.com/local/education/as-activists-try-to-get-police-out-of-schools-maryland-arrest-data-shows-racial-gap/2020/06/24/8056414e-b598-11ea-a8da-693df3d7674a_story.html). See also American Federation of Teachers, *AFT expands anti-racism efforts, calls for separating police and schools*, AMERICAN FEDERATION OF TEACHERS (June 18, 2020), <https://www.aft.org/news/aft-expands-anti-racism-efforts-calls-separating-police-and-schools>; Karen W. Webber, et al., *Restorative Practices in Baltimore City Schools*, OPEN SOCIETY INSTITUTE-BALTIMORE (Sept. 2020), <https://www.osibaltimore.org/wp-content/uploads/2020/09/RP-Report-2020-FINAL.pdf>.

## II. HB 1089 Invests in Services that Create a Safe and Supportive School Environment—Wraparound Services, Restorative Practices, and Trauma-informed Practices

Schools must be institutions of learning and support Maryland’s youth. Unfortunately, that is not the case today. Some of Maryland’s schools are wholly under-resourced and thus, unable to provide the environment and services students require to thrive.<sup>23</sup> Research demonstrates that at least 72% of today’s students experience at least one major stressful event before they turn 18 and that suicide rates amongst 10-to-17-year old’s increased 70% between 2006 and 2016.<sup>24</sup> Research also shows that schools without social services available to students on campus have lower graduation rates than those that provided services on campus.<sup>25</sup> And conversely, “[s]chools that employ more school-based mental health providers see improved attendance rates, lower rates of suspension and other disciplinary incidents, [lower] expulsion [rates], improved academic achievement and career preparation, and improved graduation rate.”<sup>26</sup> Moreover, school-based health services “not only improve the health outcomes for those students, but also improve school safety.”<sup>27</sup>

HB 1089 takes the necessary steps to provide Maryland’s students, particularly students of color, the education and learning spaces they deserve – ones that are conducive to learning and healing, safe from the harsh punishment meted by law enforcement. Safe school environments are created by providing a respectful and supportive school environment where students’ emotional and academic needs are met.<sup>28</sup> HB 1089 supports the development and maintenance of these types of school environments by making funds available for local school systems to hire school psychologists, social workers, counselors, and behavioral specialists, to expand restorative approaches, provide wraparound services, and develop trauma-informed practices.<sup>29</sup> These investments are critical to create safe and supportive school environments for Maryland’s students.

Maryland policymakers would not be alone in seeking to limit the harm done to students by police in schools. U.S. Congressional members have recognized the great need for reform and in the last Congress

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<sup>23</sup> Liz Bowie, *School funding lawsuit filed by civil rights groups can continue, judge says*, BALTIMORE SUN (Jan. 21, 2021), <https://www.baltimoresun.com/education/bs-md-bradford-school-funding-ruling-20200121-xu5mryryfdppayrztld3rsaie-story.html>.

<sup>24</sup> See Amir Whitaker, et. al., *Cops and No Counselors How the Lack of School Mental Health Staff Is Harming Students*, ACLU 4 (2020), available at <https://www.aclu.org/report/cops-and-no-counselors>.

<sup>25</sup> U.S. Department of Education, *Issue Brief: Social Services*, U.S. DEP’T OF ED. 8 (July 2017), available at <https://www2.ed.gov/rschstat/eval/high-school/social-services.pdf>.

<sup>26</sup> See Amir Whitaker, et. al., *Cops and No Counselors How the Lack of School Mental Health Staff Is Harming Students*, ACLU 4 (2020), available at <https://www.aclu.org/report/cops-and-no-counselors>.

<sup>27</sup> *Id.*

<sup>28</sup> See e.g., U.S. Department of Education, *Guiding Principles: A Resource Guide for Improving School Climate and Discipline*, U.S. DEP’T. OF ED. (Jan. 2014), <https://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf>; U.S. Department of Education, *Directory of Federal School Climate and Discipline Resources*, U.S. DEP’T. OF ED. (Jan. 2014), <https://www2.ed.gov/policy/gen/guid/school-discipline/appendix-1-directory.pdf>; *Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates*, U.S. SECRET SERVICE & U.S. DEP’T OF EDUC. (Jul. 2004), available at <https://www2.ed.gov/admins/lead/safety/threatassessmentguide.pdf>. See also U.S. DEP’T OF JUSTICE & U.S. DEP’T OF EDUCATION, DEAR COLLEAGUE LETTER ON THE NONDISCRIMINATORY ADMINISTRATION OF SCHOOL DISCIPLINE (Jan. 8, 2014), available at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html> (providing that “[s]chools are safer when all students feel comfortable and are engaged in the school community . . . . Equipping school officials with an array of tools to support positive student behavior . . . will both promote safety and avoid the use of discipline policies that are discriminatory or inappropriate.”); Anya Kamenetz, *Here’s How to Prevent the Next School Shooting, Experts Say*, NPR, Mar. 7, 2018, <https://www.npr.org/sections/ed/2018/03/07/590877717/experts-say-here-s-how-to-prevent-the-next-school-shooting>.

<sup>29</sup> See *Police-Free Schools Act*, *supra* note 2, at § 7-1511.1

introduced legislation,<sup>30</sup> akin to HB 1089, which received the support of 232 national and local civil and human rights organizations.<sup>31</sup> Additionally, school districts in Minnesota, Colorado, and Oregon have already taken steps to phase out school police and replace them with school professionals who support students.<sup>32</sup> For all these reasons, we urge the Committee to vote favorably on HB 1089.

Thank you for considering our testimony. If you have questions, please do not hesitate to contact us at 202-682-1300.

Sincerely yours,

*Puneet Cheema*

Puneet Cheema  
Manager, Justice in Public Safety Project

Allen Liu  
Law and Policy Fellow

cc: Delegate Gabriel Acevero

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<sup>30</sup> Andrew Ujifusa, *Bill to Help Schools Cut Ties With Police Introduced by Lawmakers*, EDUCATIONWEEK (July 29, 2020), available at <https://www.edweek.org/policy-politics/bill-to-help-schools-cut-ties-with-police-introduced-by-lawmakers/2020/07>.

<sup>31</sup> Support Children's Health and Well-Being: Cosponsor S. 4360/H.R. 7848, the Counseling Not Criminalization in Schools Act, The Leadership Conference on Civil and Human Rights (Dec. 2, 2020), available at <https://civilrights.org/resource/support-childrens-health-and-well-being-cosponsor-s-4360-h-r-7848-the-counseling-not-criminalization-in-schools-act/>.

<sup>32</sup> Moriah Balingit, *et. al.*, *Fueled by protests, school districts across the country cut ties with police*, WASH. POST (June 12, 2020), available at <https://www.washingtonpost.com/education/2020/06/12/schools-police-george-floyd-protests/>.