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# “His Wrists Were Too Small”: School Resource Officers and the Over-Criminalization of America’s Students

Lauren A. Maddox

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# “His Wrists Were Too Small”: School Resource Officers and the Over-Criminalization of America’s Students

Lauren A. Maddox \*

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## I. INTRODUCTION

In October 2015, a video surfaced of a white school resource officer, Deputy Fields, dragging a black female student out of her desk at Spring Valley High School in South Carolina.<sup>1</sup> The teacher called in the vice principal because the student had her cell phone out in class.<sup>2</sup> When the student refused to leave the classroom at the vice principal’s request,

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\* J.D. Candidate, University of Miami School of Law, 2017, B.A. University of North Carolina at Chapel Hill, 2013. Special thank you to Professor Osamudia James at the University of Miami School of Law for her knowledge and guidance.

<sup>1</sup> Dana Ford et. al., *Spring Valley High School Officer Suspended After Violent Classroom Arrest*, CNN (Oct. 27, 2015), <http://www.cnn.com/2015/10/27/us/south-carolina-school-arrest-video>.

<sup>2</sup> *Id.*

Deputy Fields was called into the classroom to remove her.<sup>3</sup> Deputy Fields proceeded to forcibly remove the student from the classroom by putting his arm around her neck and yanking her out of her desk.<sup>4</sup> When the desk toppled over, Deputy Fields dragged the student out of her desk to the front of the classroom to arrest her.<sup>5</sup> Students captured the incident on their cell phones and the videos went viral, evoking public outrage and raising questions about the role of police in schools.

School resource officers were placed in schools during the development of zero tolerance policies.<sup>6</sup> Zero tolerance policies in schools require punishment, including suspension and expulsion, irrespective of the severity of a student's offense.<sup>7</sup> These policies were adopted by many school districts across the country in response to school shootings during the early 1990s.<sup>8</sup>

In 1994, Congress passed the Gun Free Schools Act signed by President Clinton, which proposed that states pass laws requiring school districts to expel students for at least one year for having a firearm on school grounds and refer the offender to the juvenile justice system.<sup>9</sup> With the passing of the Gun Free Schools Act, school districts were given the option of adopting a zero tolerance policy toward firearms; however, refusing to accept this policy would result in the loss of federal funds.<sup>10</sup>

While many schools adopted a zero tolerance policy when the Gun Free Schools Act was passed, zero tolerance policies became most prominent during the late 1990s.<sup>11</sup> After the devastating school shooting at Columbine High School in 1999, schools across the country reacted by broadening zero tolerance policies to include even minor infractions.<sup>12</sup> The broken windows theory was used to justify the extension and redefinition of zero tolerance policies in schools. School officials believed it was reasonable to discipline students for minor offenses because punishment for even the smallest infractions would prevent

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> See ADVANCEMENT PROJECT, *Education on Lockdown: The Schoolhouse to Jailhouse Track*, 12 ADVANCEMENT PROJECT 17 (2005), [http://b.3cdn.net/advancement/5351180e24cb166d02\\_mlbrqgxlh.pdf](http://b.3cdn.net/advancement/5351180e24cb166d02_mlbrqgxlh.pdf) [hereinafter ADVANCEMENT PROJECT].

<sup>7</sup> Mikki L. Smith, *A Generation at Risk: The Ties Between Zero Tolerance Policies and the School-to-Prison Pipeline*, 8 MCNAIR SCHOLARS RESEARCH J. 125 (2015).

<sup>8</sup> *Id.* at 125, 126.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 127.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* 127.

major violations and increase school safety.<sup>13</sup> Administrators believed that punishing students who were disruptive in the classroom just as they would punish students who posed a danger to others would prevent tragedies like the fatal shootings at Columbine High School in Littleton, Colorado and Heath High School in Paducah, Kentucky.<sup>14</sup> Zero tolerance was believed to create a more safe and controlled learning environment.

Various measures were put in schools to enforce these broadened zero tolerance policies, including metal detectors, security cameras, locker checks, and law enforcement.<sup>15</sup> President Clinton encouraged a police presence in schools prior to the 1999 Columbine shooting; however, the tragedy at Columbine changed the enforcement of zero tolerance policies.<sup>16</sup> As the police presence in schools grew, police handled minor offenses that would normally be handled by teachers or school administrators. The police presence in schools and zero tolerance policies has resulted in increased student involvement in the criminal justice system, disproportionately so for students of color.<sup>17</sup>

Zero tolerance policies have led to students being punished and over-policed for minor offenses, often leading to involvement in the criminal justice system, known as the school-to-prison pipeline.<sup>18</sup> Police presence in schools contributes to this phenomenon because students are often criminalized rather than treated like children. Incidents like the one at Spring Valley High in South Carolina exemplify how minor nonviolent disciplinary infractions, like cell phone use in class, can escalate into a situation in which a student is arrested and the line between a child being disciplined as a student and treated like a criminal is blurred. The negative impact of zero tolerance policies enforced by school resource officers is more detrimental for students of color. Studies show that schools with higher populations of black and Latino students have more stringent zero tolerance policies.<sup>19</sup>

Part II of this note will discuss how zero tolerance policies contribute to the school-to-prison pipeline. Part III will analyze how police presence in schools contributes to the school-to-prison pipeline and over-criminalization of students, especially black students. Part IV will

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<sup>13</sup> *Id.* at 128.

<sup>14</sup> *Id.* See also *Recent Shootings at U.S. Schools*, USA TODAY (June 19, 2001), <https://perma.cc/RV6F-YRCQ>.

<sup>15</sup> See ADVANCEMENT PROJECT, *supra* note 6.

<sup>16</sup> AMANDA PETTERUTI, JUSTICE POLICY INST., EDUCATION UNDER ARREST: THE CASE AGAINST POLICE IN SCHOOLS 5 (2011), [http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest\\_fullreport.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest_fullreport.pdf).

<sup>17</sup> *Id.* at 17.

<sup>18</sup> *What is the School-to-Prison Pipeline?* AM. C.L. UNION, <https://www.aclu.org/factsheet/what-school-prison-pipeline> [hereinafter *What is the SPP?*].

<sup>19</sup> Smith, *supra* note 7, at 128.

suggest alternatives to police presence in schools and policies to improve police interaction with students.

## II. ZERO TOLERANCE POLICIES

Zero tolerance policies were expanded to include infractions including truancy and disrupting the learning environment to give administrators more control over students. Zero tolerance policies however, have pushed students out of school and into the criminal justice system. This transition occurs because zero tolerance policies have led to higher rates of suspension and expulsion, which are associated with an increased likelihood of involvement in the juvenile justice system.<sup>20</sup> Furthermore, zero tolerance policies have this effect because law enforcement officers are now commonly involved in disciplinary action in schools.

### A. *Suspension and Expulsion*

Zero tolerance policies contribute to the school-to-prison pipeline because under these policies, students face higher rates of suspension and expulsion.<sup>21</sup> Zero tolerance policies lead to higher rates of suspension and expulsion because many schools have mandated these punishments for certain behaviors.<sup>22</sup> Although the Gun Free Schools Act only required expulsion for students bringing firearms to school, many school districts interpreted the Gun Free Schools Act more broadly, expanding zero tolerance to mandate suspension or expulsion for lesser offenses.<sup>23</sup>

While many districts expanded zero tolerance toward gang activity and drugs, some districts have mandated suspension or expulsion for non-violent or disruptive behaviors, such as possessing over-the-counter medications or threatening other students.<sup>24</sup> Other schools took zero tolerance even further, punishing students for writing about murder or exhibiting behaviors that are typical of “oppositional culture,” like dyed hair or unusual colored make-up.<sup>25</sup> In schools that enforce zero tolerance policies, some infractions require teachers and administrators to refer students to law enforcement.<sup>26</sup> School resource officers on campus have

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<sup>20</sup> *What is the SPP?*, *supra* note 18.

<sup>21</sup> Smith, *supra* note 7, at 128.

<sup>22</sup> *What is the SPP?*, *supra* note 18.

<sup>23</sup> See ADVANCEMENT PROJECT, *supra* note 6, at 15.

<sup>24</sup> Kathy Koch, *Zero Tolerance*, 10 CQ RESEARCHER 185, 187 (2000).

<sup>25</sup> *Id.*

<sup>26</sup> See PETTERUTI, *supra* note 16, at 13.

helped to enforce these policies.<sup>27</sup> However, the results for students are detrimental.<sup>28</sup>

While schools following zero tolerance policies mandate expulsion for bringing weapons to school pursuant to the Gun Free Schools Act, states may pass legislation to further extend zero tolerance policies that allow discretionary discipline, leaving the decision to punish a student up to teachers and administrators.<sup>29</sup> This doubtlessly leads to imbalanced discipline based on students' race and gender.<sup>30</sup> A statewide longitudinal study in Texas examined students for at least six years.<sup>31</sup> Because Texas has one of the largest and most diverse public school districts in the country, this study is relevant in examining trends concerning zero tolerance policies.<sup>32</sup> Researchers found that about sixty percent of Texas students were either suspended or expelled during middle or high school.<sup>33</sup> Ninety percent of the time, students were suspended or expelled for discretionary offenses, or violating the school's code of conduct.<sup>34</sup> In these incidents, suspension or expulsion is not mandatory.<sup>35</sup>

Congress passed the Gun Free Schools Act with the intention of keeping schools safe from violence and to deter students from bringing firearms onto school campuses.<sup>36</sup> While school administrators intend to create a more stable environment by expanding zero tolerance policies in accordance with the broken windows theory, this expansion leaves room for teachers and administrators to arbitrarily punish students when they are not a danger to themselves or others.<sup>37</sup>

Co-authors and professors George Kelling and James Q. Wilson posited the broken windows theory in 1982.<sup>38</sup> The broken windows theory is based on the idea that maintaining order leads to less crime because, "one unrepaired broken window is a signal that no one cares,

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<sup>27</sup> *Id.* at 5.

<sup>28</sup> *Id.*

<sup>29</sup> Florence Linelle Clark, *Zero Tolerance Discipline: The Effect of Teacher Discretionary Removal on Urban Minority Students*, THE UNIV. OF TEXAS AT AUSTIN, v, 6 (Aug. 2002).

<sup>30</sup> *Id.* at 10.

<sup>31</sup> TONY FABELO ET AL., COUNCIL OF STATE GOV'T JUSTICE CTR., *BREAKING SCHOOLS RULES: A STATEWIDE STUDY OF HOW SCHOOL DISCIPLINE RELATES TO STUDENTS' SUCCESS AND JUVENILE JUSTICE INVOLVEMENT IX* (2011).

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 36.

<sup>34</sup> *Id.* at 38.

<sup>35</sup> *Id.*

<sup>36</sup> Gun Free Schools Act of 1994, 20 U.S.C. §7151 (1994).

<sup>37</sup> See ADVANCEMENT PROJECT, *supra* note 6, at 45.

<sup>38</sup> George L. Kelling and James Q. Wilson, *Broken Windows: The Police and Neighborhood Safety*, THE ATLANTIC (Mar. 19, 1982), <http://www.theatlantic.com/magazine/archive/1982/03/broken-windows/304465/>.

and so breaking more windows costs nothing.”<sup>39</sup> If people see disorder, they are likely to believe that disorder is acceptable. This idea inextricably links order and crime.<sup>40</sup> Punishment of minor offenses would prevent major offenses from occurring. Even if a behavior does not harm anyone, Kelling and Wilson suggest that punishment may still be necessary.<sup>41</sup> The authors illustrate their theory using a panhandler, asserting that if the panhandler begs without punishment, then muggers and robbers will believe that they are not likely to be “caught or even identified if they operate on streets where potential victims are already intimidated by prevailing conditions.”<sup>42</sup> Keller and Wilson concede that punishing behavior that does not harm others may appear unjust on an individual level.<sup>43</sup> However, viewed in the aggregate, this prevents more “broken windows”.<sup>44</sup>

School administrators adopted the broken windows theory and applied it to school discipline.<sup>45</sup> This ushered in the era of zero tolerance policies under which students are severely punished for minor offenses.<sup>46</sup> If school administrators ignored minor offenses, other students would take notice and commit greater offenses, eventually leading to serious and even violent misconduct in schools.<sup>47</sup> However, if administrators fixed these “broken windows,” other students would take notice and realize that their misconduct will not go unchecked.<sup>48</sup>

A striking example occurred in Queens, New York, where a twelve-year-old girl doodled on her desk with an erasable marker.<sup>49</sup> Her teacher, rather than warning the student or telling her to erase the doodles, had the student removed from the school.<sup>50</sup> She was handcuffed and detained at the police precinct across from the school for hours.<sup>51</sup> She was also

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<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> Steve C. Teske, *A Study of Zero Tolerance Policies in Schools: A Multi-integrated Systems Approach to Improve Outcomes for Adolescents*, 24 JOURNAL OF CHILD AND ADOLESCENT PSYCHIATRIC NURSING 88, 89 (2011). See Smith, *supra* note 7, at 128; see also Koch, *supra* note 24, at 198.

<sup>46</sup> *Id.*

<sup>47</sup> See *id.*

<sup>48</sup> *Id.*

<sup>49</sup> Rachel Monahan, *Queens girl Alexa Gonzalez Hauled out of School in Handcuffs After Getting Caught Doodling on Desk*, N.Y. DAILY NEWS (Feb. 4, 2010, 11:57 PM), <http://www.nydailynews.com/new-york/education/queens-girl-alexa-gonzalez-hauled-school-handcuffs-caught-doodling-desk-article-1.194141#ixzz1D0s6Esse>.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

suspended from school.<sup>52</sup> Such results suggest an overuse of suspension and expulsion. In situations in which administrators have the option of disciplining students without suspending or expelling them, they often choose the harsher punishments.<sup>53</sup> The expansion of zero tolerance policies has resulted in harsh punishments for minor offenses, which have lasting effects on students.

### B. *The Racial Divide*

Studies also show that students of color are more likely to be expelled or suspended than white students under zero tolerance policies. In the Texas study, seventy-five percent of black students faced disciplinary action at some point from seventh through twelfth grade compared to about forty-seven percent of white students.<sup>54</sup> Moreover, black students in the ninth grade experienced a thirty-one percent higher probability of suspension and expulsion for discretionary offenses than their white counterparts, while Hispanic students had an equal chance of suspension as white students.<sup>55</sup> Researchers also found that black students in the ninth grade had a twenty-three percent lower likelihood of facing a mandatory disciplinary action while Hispanic students had a sixteen percent higher likelihood of mandatory discipline compared to white students.<sup>56</sup> Controlling for over eighty factors, researchers further found that black students were no more likely than white students to misbehave in a way that required such discipline.<sup>57</sup> The outcome of this study suggests a bias on the parts of teachers and administrators who determine what punishment students face when punishment is within their discretion.<sup>58</sup>

The national data collected by the U.S. Department of Education Office for Civil Rights shows disciplinary trends in public schools. The 2014 Snapshot revealed that black students are suspended at three times the rate of white students.<sup>59</sup> Moreover, although black students make up sixteen percent of the school population, they comprise twenty-seven percent of students referred to law enforcement and thirty-one percent of

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<sup>52</sup> *Id.*

<sup>53</sup> *See* Smith, *supra* note 7, at 128.

<sup>54</sup> FABELO ET AL., *supra* note 31, at 42.

<sup>55</sup> *Id.* at 45.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at 46.

<sup>58</sup> *See* Smith, *supra* note 7, at 128.

<sup>59</sup> U.S. DEP'T OF EDUC. OFFICE FOR CIVIL RIGHTS, CIVIL RIGHTS DATA COLLECTION DATA SNAPSHOT: SCHOOL DISCIPLINE 1 (2014), <http://ocrdata.ed.gov/Downloads/CRDC-School-Discipline-Snapshot.pdf>.

school-based arrests.<sup>60</sup> White students, which represent fifty-one percent of public school enrollment, are forty-one percent of students referred to law enforcement and thirty-one percent of students arrested.<sup>61</sup> The Snapshot was also telling for students with disabilities: students with disabilities are more than twice as likely to be punished with out-of-school-suspension than students without disabilities.<sup>62</sup> This speaks to students with disabilities being sent out of the classroom, usually because their disability is misunderstood and their disability is often not being taken into account when they are being disciplined.

Under zero tolerance policies, administrators have the ability to decide whether a student's talking out of turn in class or tardiness results in a slap on the wrist with a warning or whether they will be suspended or expelled. In deciding how particular students will be punished, a teacher's implicit bias may come into play. Implicit bias involves an unconscious belief, feeling, or attitude toward an individual based on his or her race, ethnicity, appearance, or any readily visible factor.<sup>63</sup> This bias allows quick and simple categorization in our minds by relating new information to old information and experiences.<sup>64</sup> Because it is subconscious, many people do not realize when they harbor implicit biases toward a certain group, believing that whatever negative feeling they have is for a reason completely unrelated to race, ethnicity, appearance, or whatever factor the bias is truly based upon.<sup>65</sup>

Implicit bias undoubtedly leads to stereotypes and disproportionate discipline for minority students.<sup>66</sup> The teaching population is dominated by white females, while black males make up a disproportionate amount of students that are disciplined.<sup>67</sup> Part of the role of education is to socialize students at a young age, to teach them how to behave, what is and what is not acceptable according to social norms.<sup>68</sup> When students act in a way that may be normal in their homes or in their cultures, a

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<sup>60</sup> *Id.* at 6.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.* at 3.

<sup>63</sup> Thomas Rudd, *Racial Disproportionality in School Discipline: Implicit Bias Is Heavily Implicated*, KIRWAN INST. FOR THE STUDY OF RACE & ETHNICITY (Feb. 5, 2014), <http://kirwaninstitute.osu.edu/racial-disproportionality-in-school-discipline-implicit-bias-is-heavily-implicated/>.

<sup>64</sup> Leland Ware, *Implicit Bias and the School to Prison Pipeline*, HUFFINGTON POST, [http://www.huffingtonpost.com/leland-ware/implicit-bias-and-the-school-discipline\\_b\\_5635032.html](http://www.huffingtonpost.com/leland-ware/implicit-bias-and-the-school-discipline_b_5635032.html) (last updated Sept. 29, 2014).

<sup>65</sup> *Id.*

<sup>66</sup> *See id.*

<sup>67</sup> CHERYL STAATS, *IMPLICIT RACIAL BIAS AND SCHOOL DISCIPLINE DISPARITIES*, KIRWAN INST. SPECIAL REP. 8 (2014), <http://kirwaninstitute.osu.edu/wp-content/uploads/2014/05/ki-ib-argument-piece03.pdf>.

<sup>68</sup> Clark, *supra* note 29, at 1.

teacher who is not familiar with that culture may perceive that a student is misbehaving or being inappropriate simply because that student does not abide by the cultural norms of that teacher.<sup>69</sup> In other words, students are sometimes punished for not abiding by the social norms of mainstream culture.<sup>70</sup> Research has shown that when black students are taught by black instructors, their classroom behavior is rated higher than that of white students with white instructors.<sup>71</sup> Teachers who are similar to their students view their students more favorably.<sup>72</sup> This implies that a teacher's perception of a student's behavior is not separated from that teacher's individual implicit bias; cultural differences play a role in how teachers view students' behavior.<sup>73</sup> Black males in particular, are often stereotyped as dangerous or criminal.<sup>74</sup> In the context of school, this stereotype leads to an implicit bias that may prompt teachers and school administrators to believe that black males need to be controlled or more severely punished.<sup>75</sup> In an education system dominated by white females, this alienates minority students, separating them from those who are meant to teach them and those who decide whether or not their behavior is appropriate.<sup>76</sup>

The harsh punishments that come from zero tolerance policies have great implications for students. Students that have been suspended or expelled for a discretionary violation are three times more likely to enter

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<sup>69</sup> STAATS, *supra* note 67, at 9 (“Culture based misunderstandings between students and teachers can lead to students being disciplined unnecessarily for perceived unruliness even when their actions were not intended to be inappropriate ... Differences in discourse models can also signal cultural mismatch. Overlapping speech, such as the active “call-response” participatory pattern familiar to African American students, may be perceived as disruptive and/or rude when contrasted with the more ‘passive-receptive’ approach that is likely to be more typical to White teachers’ expectations.”). *See also* Douglas B. Downey & Shana Pribesh, *When Race Matters: Teachers’ Evaluations of Students’ Classroom Behavior*, 77 *SOCIOLOGY OF EDUCATION*, 267, 277 (2004) (finding that when students are placed with teachers of the same race, their behavior is rated more favorably. Moreover, when black students are placed with black instructors, their behavior is rated higher than that of white students).

<sup>70</sup> Clark, *supra* note 29, at 12.

<sup>71</sup> Downey & Pribesh, *supra* note 69. *See* STAATS, *supra* note 67, at 8.

<sup>72</sup> Downey & Pribesh, *supra* note 69.

<sup>73</sup> *See id.*

<sup>74</sup> STAATS, *supra* note 67 at 9. *See also* Rudd, *supra* note 63.

<sup>75</sup> *Id.* *See* Russell J. Skiba et al., *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*, 34 *THE URBAN REVIEW*, 317, 336 (2002) (“Fear may also contribute to overreferral. Teachers who are prone to accepting stereotypes of adolescent African-American males as threatening or dangerous may overreact to relatively minor threats to authority, especially if their anxiety is paired with a misunderstanding of cultural norms of social interaction.”).

<sup>76</sup> Clark, *supra* note 29, at 12 (“In other words, a zero tolerance approach to student behavior allows those in power to demand social conformity from minorities, specifically from African American and Hispanic students.”).

the juvenile justice system within the next year.<sup>77</sup> Researchers conducting a Colorado study examining the four largest districts in the state found that students who were suspended were two to three times more likely to drop out and not graduate high school.<sup>78</sup> These students may engage in activities that lead them to the criminal justice system while they are not in school.<sup>79</sup> Students that are punished with out-of-school suspension may also experience a higher dropout rate because out-of-school suspension and expulsion causes them to fall behind in class.<sup>80</sup> Multiple studies have found that a student that has been suspended is less likely to progress to the next grade level and attend college; the same students are more likely to drop out of school, commit a crime, or get incarcerated as an adult.<sup>81</sup> This is more probable because when students return to school after missing class time, they have missed valuable instruction and are discouraged when they cannot keep up in class.<sup>82</sup>

### III. CRIMINALIZATION OF STUDENTS

Zero tolerance policies have greatly contributed to the school-to-prison pipeline because under these policies, incidents that would commonly be handled by teachers or administrators are now referred to law enforcement.<sup>83</sup> Referrals to law enforcement are more efficient than in times past because police are on school campuses as school resource officers.<sup>84</sup> A study conducted for a ten-year period in five states revealed that in four of the five states studied, the majority of total referrals to the

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<sup>77</sup> FABELO ET AL., *supra* note 31, at xii.

<sup>78</sup> STAATS, *supra* note 67, at 12.

<sup>79</sup> *Id.* at 11.

<sup>80</sup> *Id.*

<sup>81</sup> THE CIV. RTS. PROJECT AT HARV. U., OPPORTUNITY SUSPENDED: THE DEVASTATING CONSEQUENCES OF ZERO TOLERANCE AND SCHOOL DISCIPLINE POLICIES 17 (2000), <http://civilrightsproject.ucla.edu/research/k-12-education/school-discipline/opportunities-suspended-the-devastating-consequences-of-zero-tolerance-and-school-discipline-policies/crp-opportunities-suspended-zero-tolerance-2000.pdf>; see Robert Balfanz, et al., *Sent Home and Put Off Track: The Antecedents, Disproportionalities, and Consequences of Being Suspended in the 9th Grade* in, CLOSING THE SCHOOL DISCIPLINE GAP: EQUITABLE REMEDIES FOR EXCESSIVE EXCLUSION 9, 10 (Daniel J. Losen ed. 2014) (explaining that in a longitudinal study of 181,897 Florida students, researchers found that every suspension decreases the odds that a student will graduate by twenty percent. Researchers controlled for demographics and other factors that indicate that a student may not graduate).

<sup>82</sup> See STAATS, *supra* note 67, at 12.

<sup>83</sup> Michael P. Krezmien et al., *Juvenile Court Referrals and the Public Schools: Nature and Extent of the Practice in Five States*, 26 J. CONTEMP. CRIM. JUST. 273, 275 (2010).

<sup>84</sup> *Id.*

juvenile justice system were referrals from schools, with the number of referrals from schools increasing from 1995 to 2004.<sup>85</sup> This increase corresponds with the increased prevalence of school resource officers on campuses across the country.<sup>86</sup> Researchers have also found that there has been an increase in school-based arrests since the tightening of zero tolerance policies and police presence in schools.<sup>87</sup> This is exemplified by Florida, where over seventy-five percent of 26, 990 total “school-related referrals to the Florida Department of Juvenile Justice (DJJ) in the 2004-2005 school year were for behaviors such as disorderly conduct, trespassing, or misdemeanor assault and/or battery.”<sup>88</sup> With police available on school campuses, it has become easier for teachers and administrators to crack down on students with zero tolerance policies.<sup>89</sup>

School resource officers are the link between students and the juvenile justice system. By referring a student to a school resource officer, teachers and administrators are essentially referring students to the juvenile justice system and making it easier for students to get a juvenile record. One study conducted in a southeastern school district with both urban and suburban areas found that schools with school resource officers on campus have five times more arrests for disorderly conduct than schools that do not have officers on campus.<sup>90</sup> Police presence on campus makes it easier for teachers and administrators to refer students to officers for even minor violations that would have previously been handled within the school. For example, in Clayton, Georgia, placing police in schools multiplied the amount of students being sent to juvenile court by eleven.<sup>91</sup> This increased reliance on law enforcement to discipline students has contributed to the school-to-prison pipeline.

#### A. School Resource Officer Training

The increased referral to the juvenile justice system is due to an attempt to keep schools safe for students. School administrators do not have the skills to respond to students with weapons or students who pose any danger to other students and teachers that a law enforcement officer has. While school resource officers are in schools to help administrators make schools safer and to create a more stable learning environment,

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<sup>85</sup> *Id.* at 286.

<sup>86</sup> PETERUTI, *supra* note 16, at 13.

<sup>87</sup> See ADVANCEMENT PROJECT, *supra* note 6, at 15.

<sup>88</sup> Krezmien, *supra* note 83, at 275.

<sup>89</sup> PETERUTI, *supra* note 16, at 15.

<sup>90</sup> *Id.*

<sup>91</sup> *Id.* at 14–15.

their presence in schools is to the detriment of students when the roles of school resource officers are not clearly defined.

In November 2014, a Kentucky school resource officer came under scrutiny for handcuffing a third grade student with attention deficit hyperactivity disorder (ADHD).<sup>92</sup> The student was acting out in the classroom because of his disability.<sup>93</sup> When the eight-year-old boy did not cooperate with the teacher, the school resource officer used handcuffs around the student's biceps because "his wrists were too small."<sup>94</sup> A video gone viral shows the boy exclaiming, "Ow, that hurts," as he is restrained by the handcuffs.<sup>95</sup> When asked why the officer chose to restrain the student, the lawyer for the deputy sheriff replied that the student was placing himself and others in a harmful situation and their rules say that officers should restrain such individuals.<sup>96</sup> However, there is no indication that the student was a danger to others; the school resource officer was called in to force the third grade student to comply with directions from teachers and school administrators.<sup>97</sup>

The criminalization of students is evidenced by incidents like the handcuffing of an elementary student in Kentucky and the Spring Valley High incident. Because there is no standard training of school resource officers, there is no guarantee that every school resource officer will respond to situations in a way that will deescalate the problem. Officers' lack of training and experience with children and students with disabilities create a dangerous situation in which the officers have no choice but to use what they know to handle the situation.<sup>98</sup> They often resort to using tactics and techniques learned in their police training to

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<sup>92</sup> *Lawsuit over handcuffing of Kentucky schoolchildren*, BBC NEWS (Aug. 4, 2015), <http://www.bbc.com/news/world-us-canada-33778178>.

<sup>93</sup> *Id.*

<sup>94</sup> Henry Gass, *Cops in schools: Way to Rebuild Community Trust in Law Enforcement?*, CHRISTIAN SCIENCE MONITOR (Aug. 13, 2015), <http://www.csmonitor.com/USA/Education/2015/0813/Cops-in-schools-Way-to-rebuild-community-trust-in-law-enforcement>.

<sup>95</sup> Holly Yan, *School Resource Officer Sued for Allegedly Handcuffing Children with ADHD*, CNN (Aug. 4, 2015), <http://www.cnn.com/2015/08/04/us/aclu-disabled-students-handcuffed-lawsuit/>.

<sup>96</sup> See PETTERUTI, *supra* note 16.

<sup>97</sup> Complaint for Damages and Declaratory and Injunctive Relief and Jury Demand at 7, S.R. and L.G. v. Kenton County Sheriff's Office et al. (2015) (Case 2:15-cv-001430WOB-JGW).

<sup>98</sup> See Mark Keierleber, *Why So Few School Cops Are Trained to Work With Kids*, THE ATLANTIC (Nov. 5, 2015), <http://www.theatlantic.com/education/archive/2015/11/why-do-most-school-cops-have-no-student-training-requirements/414286/>. ("There should be laws that they have, at a minimum, those three types of trainings and policies that go with them . . . Many more kids are hurt and traumatized by this than caught in fires in schools each year, so I see it as essential.").

deal with students.<sup>99</sup> Only twelve states have laws that require school resource officers to go through training.<sup>100</sup> Furthermore, these laws are inconsistent; some of these laws focus on the officer's ability to handle an active shooter, or students with weapons.<sup>101</sup> However, most of the twelve states that do require training do not require officers to be trained in specifically handling situations with children differently than they would handle situations with adults.<sup>102</sup> Although there are incidents of dangerous students that pose a threat to others, most situations can be handled in a manner that will actually help the student and may deescalate the problem so that students do not go to the juvenile justice system.

School resource officers' lack of training often results in students being referred to the juvenile justice system. Students' involvement with school resource officers may begin at the teacher's request. In other situations, students' encounter with a school resource officer may begin in the hallways or when they first enter the school through various security measures. These security measures, however, have varying implications based on a student's race. A study conducted across regions found that schools with higher populations of black students tend to have higher security.<sup>103</sup> The security measures examined were metal detectors at the school entrance, random metal detector checks on students, drug testing, random contraband sweeps, security cameras, police or security guards patrolling during school hours, and random dog sniffs for drugs.<sup>104</sup> Such extensive security measures are plenty to make students feel that they are in an oppressive environment. A female student described her discomfort with the increased security and law enforcement at her school resulting from zero tolerance policies: "It's like sexual harassment. Ok, it's not really sexual harassment. But you are very uncomfortable. You have to strip down to the T . . . They got to search you. It feels like you're in jail. It's like they treat you like animals, because they think that's where you're going to end up."<sup>105</sup> Metal detectors at the school's entrance and random dog sniffs are not conducive to a stable learning environment because students are

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<sup>99</sup> *See id.*

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> Jeremy D. Finn & Timothy Servoss, *Misbehavior, Suspensions, and Security Measures in High School: Racial/Ethnic and Gender Differences*, 5 J. OF APPLIED RES. ON CHILD.: INFORMING POL'Y FOR CHILD. AT RISK, 1, 11 (2012).

<sup>104</sup> *Id.* at 7–8.

<sup>105</sup> Kimberlé Williams Crenshaw, *Black Girls Matter: Pushed Out, Overpoliced and Underprotected*, AFRICAN AMERICAN POL'Y FORUM & CTR. FOR INTERSECTIONALITY & SOC. POL'Y STUDIES, 1, 31 (2015).

discouraged from attending school at all when faced with long lines for metal detectors before they even enter the building.<sup>106</sup> While the goal is safety, these security measures target students and treat them as criminals.

At the time of the cross-regional study, over sixty percent of black students attended high security schools.<sup>107</sup> These schools tended to be in moderate to high crime areas.<sup>108</sup> Considering the areas where these high security schools are located, school administrators may think that higher security is necessary.<sup>109</sup> However, schools with higher security measures showed a greater disparity in suspension between black and white students, controlling for the amount that students of each race misbehave.<sup>110</sup> This disparity may be the result of black students being targeted in schools with higher security measures. School administrators or school resource officers may feel that black students pose a greater threat to school safety than white students.<sup>111</sup> More black students being suspended than white students and more black students attending higher security schools inevitably results in more black students being involved in the juvenile justice system.<sup>112</sup>

### *B. Militarization of School Police*

The criminalization of students is further evidenced by the introduction of military grade weapons into schools. The suggestion that military grade weapons should be introduced into schools began with the introduction of military weapons into communities. This equipment was introduced into local communities through the Department of Defense's 1033 program, which gives military surplus gear to local police departments.<sup>113</sup> The 1033 program began with the National Defense Authorization Act in 1990, which permitted the Department of Defense to transfer surplus material to local police departments.<sup>114</sup> The idea behind the National Defense Authorization Act was that the surplus gear

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<sup>106</sup> *Id.* at 30.

<sup>107</sup> Finn, *supra* note 103, at 22.

<sup>108</sup> *Id.*

<sup>109</sup> See PETTERUTI, *supra* note 16, at 22.

<sup>110</sup> *Id.* at 18.

<sup>111</sup> *Id.* at 33.

<sup>112</sup> *Id.* at 22.

<sup>113</sup> See National Defense Authorization Act for Fiscal Year 1991, § 1005, Pub. L. No. 101-510, 104 Stat. 1485, 1630 (1990) (directing the Secretary of Defense to "review the availability of equipment . . . for the purpose of identifying excess equipment that may be suitable for drug enforcement activities for transfer to appropriate Federal, State, or local civilian law enforcement authorities").

<sup>114</sup> National Defense Authorization Act for Fiscal Years 1990 and 1991, H.R. 2461, 101st Cong. §1208 (1989).

would help local police in “counter-drug activities.”<sup>115</sup> The military equipment was given to local police departments to fight the War on Drugs by equipping them as though they are at war. This is evidenced by the overuse of Special Weapons and Tactics (SWAT) teams in communities to find drugs.<sup>116</sup> SWAT was originally meant to be used in emergencies including situations in which there is an active shooter or hostages.<sup>117</sup> However, as the War on Drugs and the subsequent militarization of local police through their use of military equipment became more commonplace, so did the use of SWAT. In 2011-2012, sixty-two percent of SWAT deployments were for drug searches and in sixty-five percent of these deployments, SWAT forced entry into homes.<sup>118</sup>

Militarization of local police was expanded after the terrorist attacks of September 11, 2001 by giving local police departments military equipment when the War on Terror began.<sup>119</sup> Grants from the Department of Homeland Security encouraged local police departments to amass military equipment to fight the War on Terror.<sup>120</sup> This increase of military equipment combined with the mission of fighting a War on Drugs and a War on Terror signifies that there is an enemy. In a situation in which local police are being militarized, however, the enemies are civilians, the people who live in the neighborhoods in which the military equipment is being used. Ferguson, Missouri’s Police Department, for example, came under criticism in 2014 for how police responded to protests related to the fatal shooting of unarmed black teenager, Michael Brown.<sup>121</sup> The local police threatened protesters with weapons on armored vehicles and responded to protesters with tear gas, shotguns, and M-4 rifles.<sup>122</sup>

This militarization of local police departments has inevitably spread to schools. School resource officers use the training and the techniques that they use in their communities to deal with students in schools

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<sup>115</sup> *Id.*

<sup>116</sup> *Id.* at 2.

<sup>117</sup> *Id.*

<sup>118</sup> Allan Smith, *America’s SWAT Teams Are More Dangerous Than Ever*, BUSINESS INSIDER (June 25, 2014), <http://www.businessinsider.com/swat-teams-strayed-from-original-purpose-2014-6>.

<sup>119</sup> WAR COMES HOME: THE EXCESSIVE MILITARIZATION OF AMERICAN POLICING, AM. C.L. UNION 16 (2014) <https://www.aclu.org/sites/default/files/assets/jus14-warcomes-home-report-web-rel1.pdf> [hereinafter WAR COMES HOME].

<sup>120</sup> *Id.* at 17.

<sup>121</sup> Niraj Chokshi and Sarah Larimer, *Ferguson Style Militarization Goes on Trial in the Senate*, WASH. POST (Sept. 9, 2014), <https://www.washingtonpost.com/blogs/govbeat/wp/2014/09/09/ferguson-style-militarization-goes-on-trial-in-the-senate/>.

<sup>122</sup> *Id.*

because there is very little training to instruct school resource officers in handling situations with children.<sup>123</sup> By 2014, over twenty-six school districts have participated in the Department of Defense's program, receiving grenade launchers, armored vehicles and M-16 rifles for use on school campuses.<sup>124</sup> Since the shooting at Columbine in 1999, there has been an increase in schools accepting military equipment.<sup>125</sup> Some school districts, like the Compton Unified School District in California, authorized its school resource officers to carry assault rifles around the school's campus.<sup>126</sup> School administrators insist that this equipment will only be used to protect students in the event of an emergency, such as an armed shooter on the school's campus.

However, with school resource officers being involved in student discipline, it is easy for students to feel threatened by officers. One student from South Central in the Los Angeles Unified School District expressed that the military equipment used in her school district is damaging to her community as a whole, stating, "[They're] meant for destruction. I don't want [their presence] to be the destruction of my community."<sup>127</sup> The introduction of weapons into schools criminalizes students and contributes to the school-to-prison pipeline. A high school teacher in the Los Angeles Unified School District saw the damaging effects of the militarization of school police, claiming, "It's hard for students to believe that their education institutions want, encourage, and are trying to develop them as civic agents . . . when, on the other side, you're talking to a highly militarized entity."<sup>128</sup> The uproar after the local police's heavily militarized response to protests in Ferguson led to President Obama's Executive Order, which ended the distribution of surplus military equipment to local school police, but only in police departments that exclusively serve K-12 school districts.<sup>129</sup> While this is a good start to combating the militarization of local police, most school

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<sup>123</sup> See Keierleber, *supra* note 98.

<sup>124</sup> *US School Districts Given Free Machine Guns and Grenade Launchers*, THE GUARDIAN (Sept. 18, 2014), <http://www.theguardian.com/world/2014/sep/18/us-school-districts-given-free-machine-guns-and-grenade-launchers>.

<sup>125</sup> *Id.*

<sup>126</sup> Conor Friedersdorf, *Compton School Board Approves AR-15 Rifles for Campus Police*, THE ATLANTIC (Aug. 19, 2014), <http://www.theatlantic.com/national/archive/2014/08/compton-school-board-approves-ar-15-rifles-for-campus-police/378738/>.

<sup>127</sup> Molly Knefel, *What Obama's New Military-Equipment Rules Mean for K-12 Police*, ROLLING STONE MAG. (May 29, 2015), <http://www.rollingstone.com/politics/news/what-obamas-new-military-equipment-rules-mean-for-k-12-school-police-20150529>.

<sup>128</sup> *Id.*

<sup>129</sup> Exec. Order No. 13688, 80 Fed. Reg. 3451 (Jan. 16, 2015).

resource officers work in schools by contract with local police departments, which can still receive military equipment.<sup>130</sup>

The militarization of local police criminalizes people in the communities that the police are meant to protect, and people of color are disproportionately affected by this militarization.<sup>131</sup> With most school resource officers working in schools by contract with local police departments, the militarization of local police inevitably affects students, like the students of the Los Angeles Unified School District.<sup>132</sup> The introduction of officers to school campuses as an extension of zero tolerance policies has led to a racial disparity in how students are disciplined. Black students are suspended, expelled, and referred to the criminal justice system more often.<sup>133</sup> The introduction of police to schools as school resource officers has furthered the school-to-prison pipeline, especially for students of color, making it easier for them to get involved in the juvenile justice system.<sup>134</sup>

#### IV. SOLUTIONS

Police presence in schools due to zero tolerance policies has led to over-policing and criminalization of students, disproportionately punishing black students. This has led to black students being trapped in the school-to-prison pipeline because of suspension, expulsion, and school based arrests. However, the negative effects of zero tolerance policies for all students could be reduced.

##### A. *The Original Purpose*

One solution would be to limit zero tolerance policies to their intended purpose: to prevent violence and to keep weapons off of school campuses. Because the expansion of zero tolerance policies created the foundation for students to be punished for non-violent and disciplinary infractions, limiting zero tolerance policies would be the proper start to decreasing the use of suspension and expulsion in schools. Moreover, limiting zero tolerance policies would decrease the need for school resource officers on campus. If zero tolerance policies were only used for their original purpose, to prevent students from bringing weapons on campus pursuant to the Gun Free Schools Act, school resource officers

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<sup>130</sup> *Id.*

<sup>131</sup> See WAR COMES HOME, *supra* note 119, at 5.

<sup>132</sup> See Knefel, *supra* note 127.

<sup>133</sup> See U.S. Department of Education, *supra* note 59; see also PETERUTI, *supra* note 16, at 29.

<sup>134</sup> See generally PETERUTI, *supra* note 16.

would only be used in instances where students posed a threat to others on campus or in the event of an emergency.

The U.S. Department of Education, recognizing that suspension and expulsion rates have risen as a result of zero tolerance policies, issued a report of Guiding Principles to assist and encourage schools to reexamine and shift policies. The three principles the U.S. Department of Education has provided are to: “1) create positive climates and focus on prevention; 2) develop clear, appropriate, and consistent expectations and consequences to address disruptive student behaviors; and 3) ensure fairness, equity, and continuous improvement.”<sup>135</sup> These are useful suggestions in helping policymakers in school districts across the country to respond to any student offense. By creating a positive environment for students to learn and focusing on prevention, educators and administrators will have the opportunity to better identify problems that students may have that cause them to misbehave at school. The executive summary focuses on support systems for students, such as school based mental health programs that will target students’ emotional needs before their behavior becomes disruptive.<sup>136</sup> This principle also suggests training for teachers, staff, and school resource officers in reinforcing positive behaviors and responding to students appropriately, and clearly defining the role of school resource officers.<sup>137</sup>

Moreover, developing clear expectations of behavior focuses on preventing student infractions and setting clear boundaries for students so that they know what to expect. This protects students’ rights to due process because students will be aware of the rules, rather than allowing students to be punished for behaviors that they may not have known were punishable.<sup>138</sup> This also serves to prevent students from being suspended or expelled, so that they do not miss valuable classroom time and do not face the potentially devastating effects, including being involved in the juvenile justice system and falling behind in their classes. The principle focuses on leaving removal from the classroom as the final option.<sup>139</sup>

Finally, the third principle makes an effort to reduce inequality in punishing students. The guidelines suggest collecting data of school discipline to evaluate whether the school is fairly implementing disciplinary policies.<sup>140</sup> It further suggests “cultural competence training” to target any implicit or unconscious biases staff may have in

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<sup>135</sup> U.S. DEP’T. OF EDUC., GUIDING PRINCIPLES: A RESOURCE GUIDE FOR IMPROVING SCHOOL CLIMATE AND DISCIPLINE 1 (2014).

<sup>136</sup> *Id.* at 2.

<sup>137</sup> *Id.* at 3.

<sup>138</sup> *Id.*

<sup>139</sup> *Id.*

<sup>140</sup> *Id.* at 4.

implementing school policies.<sup>141</sup> These guiding principles, if adopted by states, would surely help to reduce the negative impacts of zero tolerance policies and police presence in schools. With the proper training and policies, teachers, administrators, and school resource officers would better serve students and their respective communities.

*B. Are School Resource Officers Necessary?*

Even with such protocols in place, one may wonder whether school resource officers are necessary. The advantages of school resource officers must be weighed against the disadvantages. It is evident that with higher security and more school resource officers, the pathway on the school to prison pipeline has widened with more school-based arrests. However, many claim that school resource officers are valuable in maintaining safety and stability on school grounds. In cases of emergencies, fights, weapons on school campuses, and threats to students and administrators, a school resource officer stands ready and available to respond, like only a law enforcement officer can. This was demonstrated in a Colorado school when a school resource officer was credited with ending a school shooting in less than two minutes.<sup>142</sup> At 12:33 pm in December 2013, a high school student armed with a shotgun, a machete, and three Molotov cocktails entered the school and killed one student as he was headed toward the library, with the school librarian and debate coach as his target.<sup>143</sup> The school resource officer and deputy sheriff ran from the cafeteria toward the sound of the gunshot into the library and identified himself as the deputy sheriff to protect the students in the library.<sup>144</sup> The armed student then decided to kill himself.<sup>145</sup> The threat to the school had ended by 12:35 pm.<sup>146</sup> Only because of the officer's presence in the school and his ability to quickly respond to the threat did the tragedy end so quickly. While two students lost their lives, the situation could have been much worse if administrators had to wait for police to respond and arrive at the school's campus. In these situations, it is useful to have a school resource officer ready at all times. The deputy sheriff did not need to use force or any weapons to combat the dangerous student; he only announced his presence in an effort to protect the students who were in danger. This

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<sup>141</sup> U.S. DEP'T OF EDUC., *supra* note 59, at 4.

<sup>142</sup> Tom Watkins & Ana Cabrera, *Colorado's School Shooting – Over in 80 Seconds*, CNN (Dec. 15, 2013, 2:33 PM), <http://www.cnn.com/2013/12/14/us/colorado-school-shooting/>.

<sup>143</sup> *Id.*

<sup>144</sup> *Id.*

<sup>145</sup> *Id.*

<sup>146</sup> *Id.*

shows that school resource officers do have a place and a purpose in schools.

However, these incidents are not as common as many believe.<sup>147</sup> On a regular basis, school resource officers are faced with students who are referred to them by teachers and administrators for non-violent infractions. This indicates that while school resource officers may be helpful to keep students safe, there are still limitations. Simply being on a school's campus is not enough. School resource officers should be properly trained to handle situations in a way that is tailored to dealing with youth.

### C. *Responding Within the School*

Currently, zero tolerance policies lead to the school to prison pipeline because many schools have expanded zero tolerance policies beyond weapons and drugs. Because of this broad interpretation of the Gun Free Schools Act that has continued for over twenty years, students are being punished for small infractions that could be handled within the school. One solution would be for schools to have tiered protocols for students to go through before referring them to school resource officers, or issuing suspensions or expulsions.<sup>148</sup> For disciplinary infractions, students should first have to see a school guidance counselor. Often times, when students misbehave or are not cooperative in the classroom, it is because there is an underlying problem. Having students first speak to guidance counselors rather than an administrator or school resource officer is less intimidating for the student.<sup>149</sup>

Furthermore, it gives the student an adult at the school to speak to about problems that may be going on that are affecting their behavior, whether it is the divorce of their parents, or they are feeling bullied by other students in the classroom. This is one way to deescalate a potentially detrimental situation for students. It also allows the teacher to continue with the rest of the class rather than stopping to call in an administrator or school resource officer. In the incident at Spring Valley

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<sup>147</sup> Jason Bedrick, *How Common Are School Shootings?*, CATO INSTITUTE (Sept. 22, 2014), <http://www.cato.org/blog/how-common-are-school-shootings>.

<sup>148</sup> *Are Zero Tolerance*, *supra* note 126, at 858; *see e.g.* PETERUTI, *supra* note 16, at 29.

<sup>149</sup> *See* Matt Barnum, *Exclusive- Data Shows 3 of the 5 Biggest School Districts Hire More Security Officers Than Counselors*, THE 74 MILLION (Mar. 27, 2016), <https://www.the74million.org/article/exclusive-data-shows-3-of-the-5-biggest-school-districts-hire-more-security-officers-than-counselors> (discussing the importance of counselors in preventing confrontations in schools, stating that, "The benefit of school counselors is that they're at the front lines of identifying student issues, whether that be a behavioral issue, an academic issue, or even social emotional issues around mental health.").

High, the teacher called in the administrator, who then called in the school resource officer.<sup>150</sup> Had the student been sent out of the classroom to speak to a guidance counselor, the teacher would have been able to continue class with minimal disruption to other students.

A similar system has been implemented in Clayton County, Georgia.<sup>151</sup> Judge Steve Teske organized key players in the legal and education communities to form a Cooperative Agreement to reduce the amount of students referred to the juvenile justice system.<sup>152</sup> The Cooperative Agreement suggests responses to “misdemeanor delinquent acts”; students are first warned and if the behavior continues, they go to mediation, or problems are handled within school before they are referred to the juvenile justice system.<sup>153</sup> The Cooperative Agreement has resulted in an eighty-six percent decrease in referrals to the juvenile justice system for fighting and a sixty-four percent decrease in referrals for disruption.<sup>154</sup> This has also increased the county graduation rate by twenty-percent.<sup>155</sup> Clayton County is an example of how handling minor infractions within the school and giving students an opportunity to correct their behavior can not only decrease the negative effects of the school-to-prison pipeline by reducing referrals to the criminal justice system, but it also increases positive outcomes. When students are not discouraged by suspension, expulsion, and referrals to the criminal justice system, they can correct their behavior and graduate high school successfully.

#### D. *School Resource Officer Training*

While school police have a proper place in schools, school resource officers should not be expected to handle disciplinary infractions. In fact, they should be trained to avoid handling disciplinary infractions, even at the requests of teachers and administrators. Students’ disciplinary offenses are best handled within the school. Because school resource officers were placed in schools to keep schools safe after the tragic school shootings during the 1990s, they should maintain that role and only handle students who pose a threat to others: students who have weapons, students who are in physical altercations, or students who bring drugs on campus.

A few school districts have enacted this model and have been successful in discouraging school resource officer involvement unless

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<sup>150</sup> Ford, *supra* note 1.

<sup>151</sup> See PETTERUTI, *supra* note 16, at 29.

<sup>152</sup> *Id.*

<sup>153</sup> *Id.*

<sup>154</sup> *Id.* at 30.

<sup>155</sup> *Id.*

absolutely necessary. In 2012, a law passed in Denver, Colorado advising schools to limit use of school resource officers for minor infractions.<sup>156</sup> This also required reports and data collection on student misconduct, focusing on race and gender.<sup>157</sup> In 2013, the local police department and the Denver public school system further came to an agreement to limit their involvement in school discipline.<sup>158</sup> A signed agreement between the city's police department and leaders in the public school system details offenses that require police action and those that should be handled within the school, and encourages restorative justice for students.<sup>159</sup> Similarly, in Broward County, Florida, education officials, government agencies, and civil rights organizations formed a task force to provide guidelines for school resource officer training and to discourage their involvement in school discipline.<sup>160</sup> This agreement aims to move students out of the school-to-prison pipeline, recognizing that even though some student misbehavior may count as nonviolent misdemeanors, these infractions are best handled out of the criminal justice system.<sup>161</sup>

Furthermore, school resource officers should be properly trained to provide a safe environment for students. The training criteria should be consistent and focus on how officers should handle situations with students differently than they would handle situations with adults. This training would be most efficient if tailored to the school environment to deescalate problems so that students would only be arrested if absolutely necessary.<sup>162</sup> Moreover, this training should focus on officers treating students equally and not targeting minority students, especially black students and students with disabilities.<sup>163</sup>

There have been numerous reports of school resource officers using force on students for minor disciplinary infractions or handcuffing students when they are not being violent. Mo Canady, the executive director of the National Association of School Resource Officers has

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<sup>156</sup> Tierney Sneed, *School Resource Officers: Safety Priority or Part of the Problem*, U.S. NEWS & WORLD REPORT (Jan. 30, 2015, 12:01 AM), <http://www.usnews.com/news/articles/2015/01/30/are-school-resource-officers-part-of-the-school-to-prison-pipeline-problem>.

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> Donna St. George, *A Shift in Denver: Limits on Police in Schools*, THE WASHINGTON POST (Feb. 18, 2013), [https://www.washingtonpost.com/local/education/a-shift-in-denver-limits-on-police-in-schools/2013/02/18/932083b4-791b-11e2-9a75-dab0201670da\\_story.html](https://www.washingtonpost.com/local/education/a-shift-in-denver-limits-on-police-in-schools/2013/02/18/932083b4-791b-11e2-9a75-dab0201670da_story.html).

<sup>160</sup> Sneed, *supra* note 156.

<sup>161</sup> *Id.*

<sup>162</sup> Sneed, *supra* note 156.

<sup>163</sup> *Id.* (discussing the importance of training to respond to students with disabilities); PETERUTI, *supra* note 16, at 32.

explained that when conflicts arise between students and school resource officers, he first searches the database to see if the officer has completed the training for school resource officers, “And the answer is consistently no.”<sup>164</sup> Training for school resource officers is required in only twelve states, and training requirements vary in each state.<sup>165</sup> In Colorado, the state set minimum requirements for school resource officers in 2012.<sup>166</sup> Prior to that, some departments received extensive training for working in schools, while others only watched a video for an hour and a half as training, and others completed no training at all.<sup>167</sup> To ensure that there are specific guidelines for school resource officers and to minimize the number of incidents between school resource officers and students, states should set uniform guidelines for training school resource officers.

Another consideration would be to cut the federal funding for school resource officers through the Community Oriented Police Services (COPS) program unless states require that school resource officers be properly trained.<sup>168</sup> This would incentivize states to set standards for police officer training. This would help to minimize the situations in which school resource officers treat students as they would adults, increasing the effectiveness of police on school campuses.

## V. CONCLUSION

Although the Gun Free Schools Act was intended to make schools safer, zero tolerance policies have been expanded to such an extent that they have had the opposite result for students. Rather than making schools a safe zone for students, zero tolerance policies have made schools a place where students can have their freedoms threatened for reasons that may be completely subjective. Police presence in schools as school resource officers has exacerbated the negative impact of zero tolerance policies because with law enforcement on school campus, it is easier for teachers and administrators to funnel students from the learning environment to the juvenile justice system. These results are disproportionately worse for students of color. Because zero tolerance policies have been expanded to include infractions that are at the discretion of teachers and administrators, there is room for implicit bias to play a role in which students are affected by zero tolerance policies.

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<sup>164</sup> See Keierleber, *supra* note 98.

<sup>165</sup> *Id.*

<sup>166</sup> *Id.*

<sup>167</sup> *Id.*

<sup>168</sup> See Spencer C. Weiler & Martha Cray, *Police at School: A Brief History and Current Status of School Resource Officers*, 84 THE CLEARING HOUSE 160 (2011) (describing the federal funding through the COPS program).

Research has shown that black students are suspended, expelled, and arrested at school more often than their white counterparts. These forms of discipline have unfortunate and lasting effects on these students' futures, causing them to miss time in class, which may lead students to drop out of school or get involved in the juvenile justice system.

While these results are unfortunate, the negative impact of zero tolerance policies can be reduced by returning to the original intent of the Gun Free Schools Act. While school resource officers do have a significant role in keeping schools safe and being readily available in emergency situations, their positive effects can only be fully realized if they have the proper training to perform their roles. The training standards for school resource officers should be uniform across states because the role of school resource officers should be the same across states: to keep students safe.

Moreover, school resource officers should only be used when students bring weapons to school or when they pose a danger to other students, not for disciplinary offenses. Disciplinary infractions should be handled within schools through graduated systems, allowing counselors and administrators to identify the cause of a student's disruptive behavior and working to eliminate any obstacles to students being cooperative and contributing to a stable learning environment. While the intentions of zero tolerance policies are to keep students safe, students cannot be safe when their futures are endangered by these very policies. Zero tolerance policies and police presence in schools has hindered students' progress rather than helped it. However, their expected results can be realized, and the school-to-prison pipeline can be severed, when policies are clarified and the roles of teachers, administrators and school resource officers are clearly defined.