

February 25, 2021

The Honorable Joseph R. Biden, Jr.  
President of the United States  
The White House  
Washington, D.C. 20500

*Via email*

Dear President Biden:

On behalf of the American Civil Liberties Union and the undersigned 151 organizations, we write to ask you to end the use of Department of Justice federal funding for police in schools. Instead, we urge you to issue an executive order directing the Department of Justice to shift its funding away from supporting the use of school-based police and toward the use of much-needed mental health professionals in our schools. We also urge you to work with Congress to support positive school climates by submitting an FY 2022 budget that specifically prohibits all federal funding of police in schools, and endorsing the *Counseling Not Criminalization in Schools Act*. Our students need more counselors, school psychologists, school social workers, and school nurses who use evidence-based and trauma-informed practices to enable children to thrive in positive learning environments.

*Funding Police in Schools Criminalizes and Harms Our Students*

Continuing the federal funding of police in schools (including School Resource Officers) funds the criminalization, discrimination, and mental and physical harm of our students.<sup>1</sup> We know that placing police in schools makes it more likely for students in those schools to be suspended, referred to law enforcement, and arrested in school.<sup>2</sup> These adverse outcomes inevitably lead to more students pulled into the criminal legal system.<sup>3</sup> Students who are Black, Brown, Indigenous, LGBTQ, and those with disabilities experience most acutely the impact of school policing.<sup>4</sup> Research has shown that transgender and nonbinary students experience higher levels of violence and criminalization than their cisgender peers.<sup>5</sup> Students of color are more likely

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<sup>1</sup> A School Resource Officer is defined in federal statute as “a career law enforcement officer, with sworn authority, deployed in community-oriented policing, and assigned by the employing police department or agency to work in collaboration with schools and community-based organizations.” 34 U.S.C. § 10389(4) (2018).

<sup>2</sup> Benjamin W. Fisher, and Emily A. Hennessy, *School Resource Officers and exclusionary discipline in U.S. high schools: A systematic review and meta-analysis*, *Adolescent Research Review* 1, 217 (2016); Matthew Theriot, *School resource officers and the criminalization of student behavior*, 37 *Journal of Criminal Justice* 3, 280 (2009); Emily M. Homer & Benjamin W. Fisher, *Police in schools and student arrest rates across the United States: Examining differences by race, ethnicity, and gender*, 19 *Journal of School Violence* 2, 192 (2019).

<sup>3</sup> Jason Nance, *Students, Police, and the School-to-Prison Pipeline*, 93 *Wash. L. Rev.* 919 (2016).

<sup>4</sup> For an interactive map tracking incidents of school police violence against students of color and students with disabilities, see The Advancement Project and Alliance for Educational Justice, “#AssaultAt Map” (2019), <https://wecametolearn.com/#assaultat-map>.

<sup>5</sup> GLSEN, *Educational exclusion: Drop out, push out, and school-to-prison pipeline among LGBTQ youth* (2016), [https://www.glsen.org/sites/default/files/2019-11/Educational\\_Exclusion\\_2013.pdf](https://www.glsen.org/sites/default/files/2019-11/Educational_Exclusion_2013.pdf).



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**Deborah N. Archer**  
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Executive Director

to attend a school with a police officer, and are more likely to be referred and arrested while at school.<sup>6</sup> In districts with more Black students, school police are more likely to focus on the students themselves as the threats—in stark contrast to districts with more white students where police are more likely to focus on external threats.<sup>7</sup> The racialization of policing in our communities has extended to our schools, and shows no signs of stopping.<sup>8</sup>

Students with disabilities are even more likely to be targeted by police in school. School-reported data show that students with disabilities were nearly three times more likely to be arrested and referred to law enforcement than students without disabilities (and this disparity increases up to tenfold in some states).<sup>9</sup> This risk is multiplied in schools with police, as students with disabilities often attend schools that are underresourced to the point that teachers inappropriately rely on law enforcement to address concerns about disability-related issues. Students of color with disabilities experience the worst outcomes of all students—as they encounter the intersectional negative and compounding impacts of racism and ableism. Black boys with disabilities were five times more likely than all students to have police called.<sup>10</sup> Although there have been countless lawsuits and settlements in schools and districts, the targeting and abuse toward students of color with disabilities continues.

Ending the use of federal dollars for the hiring of school police is an essential step in mitigating the traumas our students experience, as school districts rely on federal funding to subsidize the addition of new officers. The Department of Justice, through its Office of Community Oriented Policing Services (COPS), has provided nearly \$1 billion in federal grants to state and local governments for the policing, surveillance, hardening, and militarization of schools—and granted \$50 million in grants in 2020 alone.<sup>11</sup> However, this federal funding did not lead to better student outcomes: schools receiving federal funding to hire more police experienced decreases in graduation rates and decreases in college enrollment rates.<sup>12</sup> Students report that the presence of police in schools lead to a poorer school climate, increased police violence and brutality, and incarceration and referrals to family court and the juvenile justice system. We reject the hiring of even more police when evidence from countless studies shows that schools with police are no safer than those without.<sup>13</sup>

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<sup>6</sup> American Civil Liberties Union, *Cops and No Counselors: How the Lack of School Mental Health Staff Is Harming Students* (“Cops and No Counselors”) (2019), [https://www.aclu.org/sites/default/files/field\\_document/030419-acluschooldisciplinereport.pdf](https://www.aclu.org/sites/default/files/field_document/030419-acluschooldisciplinereport.pdf).

<sup>7</sup> Benjamin W. Fisher, et al., *Protecting the Flock or Policing the Sheep? Differences in School Resource Officers’ Perceptions of Threats by School Racial Composition*, Social Problems (2020).

<sup>8</sup> Georgetown Law Center on Poverty and Inequality’s Initiative on Gender Justice & Opportunity, *Data Snapshot: 2017-2018 National Data on School Discipline by Race and Gender* (Dec. 2020), <https://genderjusticeandopportunity.georgetown.edu/wp-content/uploads/2020/12/National-Data-on-School-Discipline-by-Race-and-Gender.pdf>.

<sup>9</sup> *Cops and No Counselors* at 25.

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

<sup>11</sup> U.S. Department of Justice, Office of Community Oriented Policing Services, “2020 COPS Office School Violence Prevention Program” (Sept. 2020), [https://cops.usdoj.gov/pdf/2020AwardDocs/svpp/Post\\_Award\\_FactSheet.pdf](https://cops.usdoj.gov/pdf/2020AwardDocs/svpp/Post_Award_FactSheet.pdf).

<sup>12</sup> Emily K. Weisburst, *Patrolling Public Schools: The Impact of Funding for School Police on Student Discipline and Long-Term Education Outcomes* (A Sub-project of ‘Building Pathways to College Access and Beyond’), (Education Research Center, 2018), <https://texaserc.utexas.edu/wp-content/uploads/2018/11/21-UTA034-Brief-BPCAB-11.1.18.pdf>.

<sup>13</sup> National Association of School Psychologists. *Research on School Security: The Impact of Security Measures on Students* (2013) (citing sources).

## *Funding Counselors and Other Mental Health Professionals Supports Our Students*

Instead, investment in healthy school climates—where students feel safe and valued—makes schools safer. This investment is made through the placement of school-based mental health personnel who use trauma-informed practices, transformative justice, and other supportive approaches. Schools that employ more school-based mental health providers see fewer disciplinary incidents, improved academic achievement, and improved graduation rates.<sup>14</sup> One in every five children develop mental health disabilities, and students are 21 times more likely to seek mental health treatment from school-based providers than anywhere else.<sup>15</sup> The COVID-19 pandemic has increased this need as youth are now experiencing an array of stresses and traumas associated with social isolation, loss of family members, and COVID infection.<sup>16</sup> School closures and distance learning have not diminished the traumatizing and destabilizing impact of police officers, as they are now making house calls for academic concerns.<sup>17</sup> Counselors and other mental health providers have the specialized training and experience to support students—not police. There are 14 million students in schools with police but no counselor, nurse, psychologist, or social worker—nearly one third of our student population.<sup>18</sup> Police violence in schools and communities has traumatized many Black and Brown students; instead of being victimized by police, our students deserve to be physically safe and supported by counselors and other mental health professionals. We ask you to use these funds to sustain our students.

We recognize the steps your Administration has already taken to address racial equity and criminal legal reform, and we respectfully urge you to act now to consider the inequities in our schools and the criminalization of our youth. While these asks are part of the *Counseling Not Criminalization in Schools Act of 2020 (H.R. 7848/S. 4360)*—introduced in the last Congress and supported by 233 organizations<sup>19</sup>—we collectively urge you to use the tools of the presidency to take the immediate action that our nation’s students deserve. We applaud that you have already committed to doubling the number of school-based mental health professionals through your education platform.<sup>20</sup> We challenge you to repurpose your proposed \$300 million investment in the COPS Office to hire those mental health

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<sup>14</sup> Richard T. Lapan, Sara A. Whitcomb, and Nancy M. Aleman, *Connecticut professional school counselors: College and career counseling services and smaller ratios benefit students*, 16 *Professional School Counseling* 2, 117 (2012); Richard T. Lapan, Norman C. Gysbers, and Yongmin Sun, *The impact of more fully implemented guidance programs on the school experiences of high school students: A statewide evaluation study*, 75 *Journal of Counseling & Development* 4, 292 (1997);

Kevin Tan, et al., *The impact of school social workers on high school freshman graduation among the one hundred largest school districts in the United States*, 39 *School Social Work Journal* 2, 1 (2015).

<sup>15</sup> Shannon Stagman and Janice L. Cooper, *Children’s Mental Health: What Every Policymaker Should Know*, (National Center for Children in Poverty, 2010), [http://www.nccp.org/publications/pdf/text\\_929.pdf](http://www.nccp.org/publications/pdf/text_929.pdf); Linda Juszczak, Paul Melinkovich, and David Kaplan, *Use of Health and Mental Health Services by Adolescents Across Multiple Delivery Sites*, 32 *Journal of Adolescent Health* 6, 108 (2003).

<sup>16</sup> Cecile Rousseau and Diana Miconi, *Protecting Youth Mental Health During the COVID-19 Pandemic: A Challenging Engagement and Learning Process*, 59 *Journal of the American Academy of Child & Adolescent Psychiatry* 11, 1203 (2020).

<sup>17</sup> Blythe Bernard, *Ritenour School District investigating home visit by police officer over failing grade*, ST. LOUIS POST-DISPATCH, Jan. 5, 2021, [https://www.stltoday.com/news/local/education/ritenour-school-district-investigating-home-visit-by-police-officer-over-failing-grade/article\\_7205ff4c-38c7-5671-9212-c46d3947071c.html](https://www.stltoday.com/news/local/education/ritenour-school-district-investigating-home-visit-by-police-officer-over-failing-grade/article_7205ff4c-38c7-5671-9212-c46d3947071c.html).

<sup>18</sup> *Cops and No Counselors* at 22.

<sup>19</sup> The Leadership Conference Letter, *Support Children’s Health and Well-Being; Cosponsor S.4360/H.R. 7848, The Counseling Not Criminalization in Schools Act* (Dec. 2020), <http://civilrightsdocs.info/pdf/policy/letters/2020/genericCounselingNotCriminalizationinSchoolsActLetter102820v1.pdf>.

<sup>20</sup> Biden For President, *The Biden Plan for Educators, Students, and Our Future*, <https://joebiden.com/education/>.

professionals instead of placing more police in our communities, and to support community-owned and community-driven safety strategies that are police-free and center the leadership of community residents and students in schools.<sup>21</sup> We urge you to listen to the data, the evidence, and our students in eliminating federal support of police in schools. With a new commitment to divert this federal funding to fund the placement of more mental health professionals in our schools, your administration would display leadership in recognizing our students and communities' calls for safer schools where our students can feel supported and thrive.

If you have any questions about the issues raised in this letter, please contact West Resendes of the American Civil Liberties Union at [wresendes@aclu.org](mailto:wresendes@aclu.org) and Chris Scott of the Open Society Policy Center at [christopher.scott@opensocietyfoundations.org](mailto:christopher.scott@opensocietyfoundations.org).

Sincerely,

American Civil Liberties Union  
Open Society Policy Center  
A Black Education Network (ABEN)  
A Little Piece of Light  
ACCESS  
Access Living  
Activists With A Purpose  
Advocacy Without Borders  
Advocates For Children of New York  
African American Roundtable, Inc  
AL Association for the Arts, Inc.  
Alabama Justice Initiative  
American School Counselor Association  
Autistic Self Advocacy Network  
Autistic Women and Nonbinary Network  
Bazelon Center for Mental Health Law  
Bend the Arc: Jewish Action  
Black and Brown Womyn Power Coalition, Inc.  
Black Parallel School Board  
Black With No Chaser  
BreakOUT!  
Center for Disability Rights  
Center for Law and Social Policy (CLASP)  
Center for LGBTQ Economic Advancement & Research  
Center for Popular Democracy  
Center for Public Representation  
Charles Hamilton Houston Institute for Race and Justice at Harvard Law School  
Children's Defense Fund - NY  
Children's Law Center, Inc.  
Cia Siab, Inc.  
Citizens for Juvenile Justice  
Citizens for Public Schools  
Clearinghouse on Women's Issues

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<sup>21</sup> Biden For President, *The Biden Plan for Strengthening America's Commitment to Justice*, <https://joebiden.com/justice/>.

Coalition for Juvenile Justice  
Communities for Just Schools Fund  
Council for Children's Rights  
Council of Parent Attorneys and Advocates  
Criminalization of Poverty Project at the Institute for Policy Studies  
Defending Rights & Dissent  
Dignity in Schools Campaign  
Disability Rights Education & Defense Fund  
Disability Rights Pennsylvania  
Disability Rights Wisconsin  
Drug Policy Alliance  
East Bay Community Law Center  
Education Law Center  
Education Law Center-PA  
EveryBlackGirl, Inc  
Family Equality  
Family Network on Disabilities  
Family Voices NJ  
Fannie Lou Hamer Center for Change  
FIRST  
First Focus Campaign for Children  
Foodlink Inc.  
Framingham Families for Racial Equity in Education (FFREE)  
Freedom Action Now, Inc.  
Freedom, Inc.  
Fund for Community Reparations for Autistic People of Color's Interdependence, Survival,  
and Empowerment  
Futures Without Violence  
Genders & Sexualities Alliance Network  
Girls for Gender Equity  
Girls Inc.  
GLSEN  
GO-HIGH CORP  
Goodkids Madcity Englewood  
Greenfield Racial Justice  
Gwinnett SToPP  
Hmong American Women's Association, Inc.  
Howard Brown Health  
Human Rights Campaign  
IBW-ACTION  
IDRA (Intercultural Development Research Association)  
Illinois Families for Public Schools  
Interfaith Action for Human Rights  
Justice Strategies  
Juvenile Justice Coalition  
Juvenile Law Center  
Lawyers for Good Government (LAGG)  
Lawyers' Committee for Civil Rights - San Francisco  
Lawyers' Committee for Civil Rights Under Law  
League of Women Voters of the United States  
Legal Action Center

Legal Aid Justice Center  
Massachusetts Advocates for Children  
Metcalfe Park Community Bridges, Inc  
MN Parent Union  
MomsRising  
Montgomery County Civil Rights Coalition  
Muslim Voices Coalition  
National Action Network  
National Association of Counsel for Children  
National Association of Criminal Defense Lawyers  
National Black Child Development Institute  
National Black Justice Coalition  
National Black Women's Justice Institute  
National Center for Learning Disabilities  
National Center for Special Education in Charter Schools  
National Center for Youth Law  
National Council of Churches of Christ in the USA (NCC)  
National Crittenton  
National Disability Rights Network (NDRN)  
National Equality Action Team (NEAT)  
National Juvenile Defender Center  
National Juvenile Justice Network  
National Network for Arab American Communities  
National Urban League  
National Women's Law Center  
Native American Disability Law Center  
New Bedford Coalition to Save Our Schools  
New Settlement  
New Hour for Women and Children - LI  
Nollie Jenkins Family Center, Inc.  
Padres y Jóvenes Unidos  
Parent / Professional Advocacy League  
Parents Across America  
Parents Organized for Public Education  
Pegasus Legal Services for Children  
Racial Justice NOW!  
Rebuilding Independence My Style  
Rochester Area Community Foundation  
RYSE Center  
Silver Spring Justice Coalition (Silver Spring, Maryland)  
Southeast Asia Resource Action Center (SEARAC)  
SPAN Parent Advocacy Network (SPAN)  
Special Education Equity for Kids in Connecticut (SEEK)  
SPLC Action Fund  
Stand for Children  
Strategies for Youth  
Takoma Park Mobilization (Takoma Park, Maryland)  
Teachers Unite  
Teaching for Change  
Texas Appleseed  
The Advocacy Institute

The Black Sex Worker Collective  
The Children's Agenda  
The Daniel Initiative  
The EdLaw Project of the Youth Advocacy Foundation  
The Education Trust  
The Institute for Compassion in Justice  
The Sentencing Project  
THRIVE Center  
UnidosUS  
Virginia Council on LGBTQ+  
Voices for Vermont's Children  
Vote Huntsville  
Washington Lawyers' Committee for Civil Rights & Urban Affairs  
Worcester Interfaith  
Youth Justice Education Clinic, Loyola Law School  
Youth on Board  
Youth, Rights & Justice  
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Breon Wells  
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Kelisa Wing, 2017 State Teacher of the Year  
Keren Cabral  
Khem Irby  
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Lisa Guisbond, Executive Director  
Lizabeth Roemer  
Madeline Rosario - Director  
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