



MONTGOMERY COUNTY, MARYLAND  
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

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**BILL 7-21—POLICE - SCHOOL RESOURCE OFFICER - BUILDING POSITIVE LAW  
ENFORCEMENT RELATIONSHIPS WITHIN SCHOOLS**

**MARCH 4, 2021**

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND**

**OPPOSE**

Thank you for this opportunity to submit written testimony to the Montgomery County Council concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)**. WDC is one of the largest and most active Democratic Clubs in our County with hundreds of politically active women and men, including many elected officials.

We do not support Bill 7-21 because it does not ensure elimination of the harm that is caused by the presence of school resource officers (SROs) in MCPS schools. By allowing the Superintendent to decide whether, and to what extent, to assign SROs to schools, it does virtually nothing to change current practice. The Superintendent would be free to assign SROs to schools where the principals have become accustomed to relying on them to intervene in disciplinary matters. As a result:

- Black students, other students of color, and students with disabilities would continue to be arrested in numbers disproportionate to their share of enrollment, mostly for minor infractions.
- Students would continue to experience harsh discipline that is at odds with MCPS' own discipline philosophy and guidance about the importance of fostering positive behavior.
- MCPS would continue making contributions to the school-to-prison pipeline.
- And the call from the students for needed changes to support their needs and address their concerns about safety and racial equity would go unheeded.

**Criminalization of minor infractions.** We believe it is time for the school officials to assume responsibility for administering discipline without reliance on law enforcement. Discipline needs to be administered fairly and in accordance with best practices reflected in State and local policy documents. The MCPS Student Code of Conduct calls for restorative practices for conflicts typical of adolescents such as threats and fighting.<sup>1</sup> No students should be arrested for low-level offenses. However, every year students are being arrested for minor infractions, including students in middle schools. In 2018-2019, there were 16 arrests in nine MCPS middle schools.<sup>2</sup> This treatment is not explicable, justifiable or educationally sound.

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<sup>1</sup> See 2019-2020 Montgomery County Student Code of Conduct, [https://www2.montgomeryschoolsmd.org/siteassets/schools/elementary-schools/d-g/dufiefes/1308.19 2019 2020 student code-of-conduct web.pdf](https://www2.montgomeryschoolsmd.org/siteassets/schools/elementary-schools/d-g/dufiefes/1308.19%202019%202020%20student%20code-of-conduct%20web.pdf)

<sup>2</sup>The arrest data referred to in this testimony are found in: Maryland State Department of Education (MSDE), Maryland Public School Arrest Data for School Years 2015-2016, 2016-2017, 2017-2018, 2018-2019.



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Police are unlikely to stop arresting students if they are present in the schools. We know from research that schools with SROs tend to have more arrests and are more punitive in addressing misbehavior than schools without police. Researchers think that the presence of police can create a criminal justice orientation to discipline and that it increases the likelihood that school officials turn to SROs to handle disciplinary problems that should be addressed administratively.<sup>3</sup> This appears to have been the case in MCPS in school year 2019-2020 in which 97 percent of the arrests were school initiated, that is, arrests made in response to a request to intervene by school officials, school security employees, teachers or parents.<sup>4</sup>

Once an SRO is called upon to deal with an incident, the SRO has considerable discretion in determining whether to make an arrest and the decision is solely in the hands of the SRO. With overlap between most school codes of conduct and criminal codes, students in schools with SROs are at risk of being arrested for minor infractions.<sup>5</sup> That

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<http://marylandpublicschools.org/about/Pages/DSFSS/SSSP/StudentArrest/index.aspx>. Arrest data for 2019-2020 can be found in a slide presentation made to the Montgomery County Board of Education on October 5, 2020, [https://go.boarddocs.com/mabe/mcpsmd/Board.nsf/files/BU5PS965F571/\\$file/Arrest%20Data%20SRO%20Work%20Group%20201005%20PPT.pdf](https://go.boarddocs.com/mabe/mcpsmd/Board.nsf/files/BU5PS965F571/$file/Arrest%20Data%20SRO%20Work%20Group%20201005%20PPT.pdf)

<sup>3</sup>Emily M. Homer and Benjamin W. Fisher. "Police in schools and student arrest rates across the United States: Examining differences by race, ethnicity, and gender," *Journal of School Violence* (2019): 8-11, [Police-in-schools-and-student-arrest-rates-across-the-United-States-Examining-differences-by-race-ethnicity-and-gender.pdf](https://www.researchgate.net/publication/348888888_Police-in-schools-and-student-arrest-rates-across-the-United-States-Examining-differences-by-race-ethnicity-and-gender) (researchgate.net); ACLU, Cops and No Counselors. How the Lack of School Mental Health Professionals is Harming Students (2020): 23, <https://www.aclu.org/report/cops-and-no-counselors>;

Benjamin W. Fisher and Hennessy, "School Resource Officers and Exclusionary Discipline in U.S. High Schools: A Systematic Review and Meta-analysis," *Adolescent Research Review* 1, 217-233 (2016): 218-220, 229, <https://doi.org/10.1007/s40894-015-0006-8>; Aaron Kupchik, Research on the Impact of School Policing. ACLU Pennsylvania (August 2020), <https://fisafoundation.org/wp-content/uploads/2020/08/Research-on-School-Policing-by-Aaron-Kupchik-July-2020.pdf>; Jason P. Nance, "Students, Police, and the School-to-Prison Pipeline," (November 2, 2015). 93 *Washington University Law Review* 919 (2016), University of Florida Levin College of Law Research Paper No. 15-20: 976-977, <https://ssrn.com/abstract=2577333>.

<sup>4</sup> See Montgomery County Department of Police School Resource Officers Program FAQ Document: 11, <https://www.montgomerycountymd.gov/pol/Resources/Files/SRO/MCPD-SRO-FAQ.pdf>

<sup>5</sup>Development Services Group, Inc., "Interactions between Youth and Law Enforcement." Literature review. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention (2018): 6-7 <file:///C:/Users/Dell/Downloads/826140.pdf>; Amanda Merkwae, "Schooling the Police: Race, Disability, and the Conduct of School Resource Officers," 21 *Michigan Journal of Race and Law* 147 (2015), <https://repository.law.umich.edu/mjrl/vol21/iss1/6>; Elaine Bonner-Tompkins, Leslie Rubin, and Kristen Latham, The School-to-Prison Pipeline in Montgomery County, March 1, 2016, Office of Legislative Oversight, Montgomery County, Maryland: 82-83, <https://www.montgomerycountymd.gov/OLO/Resources/Files/2016%20Reports/School%20to%20Prison%20Pipeline%20with%20CAO%20Response%2020166.pdf>; Fisher (2016): 219-220; Nance (2016): 949-951.



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is what has occurred in MCPS. The MCPD reports that 90 percent of the arrests in 2019-2020 were not significantly serious. They involved misconduct for which only paper arrests were made. Because there were no serious threats to anyone's safety, law enforcement determined that there was no need to handcuff the student and physically remove the student from the school premises.<sup>6</sup> However, issuing paper arrests appears to be totally at odds with MCPS discipline philosophy and best practices. In 2018-2019 there were arrests for behavior involving tobacco, inhalants, alcohol, trespassing, and making threats to other students.<sup>7</sup> All of these are examples of inappropriate behavior for which an administrative response would have been appropriate.<sup>8</sup> Instead, because of easy access to law enforcement, students engaged in this typical adolescent behavior are put at risk of being dumped into the school-to-prison pipeline.

**Disproportionate harm to Black students, other students of color, and students with disabilities.** The arrest data clearly indicate that certain groups of students are disproportionately harmed by the presence of police—most notably Black students, but also other students of color and students with disabilities. The County Council cannot claim it is committed to advancing racial equity and not attempt to change a practice that has a discernible negative impact on these students. During the past five years 46 percent of the 1,113 MCPS arrests were of Black students, who represent about 20 percent of the school population. Black students were more than 10 times as likely to be arrested as White students in two of the past five years and three times as likely in the other three years.<sup>9</sup> County and school officials alike should find these disparities to be alarmingly high.

The disproportionate arrests of students with disabilities should also be of concern to policymakers and school officials. Recipients of special education services in our schools are being arrested at roughly twice the rate of

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<sup>6</sup> See MCPD SRO FAQ document.

<sup>7</sup> See footnote 2 for source of arrest data.

<sup>8</sup> See 2019-2020 Montgomery County Student Code of Conduct for examples of appropriate responses.

<sup>9</sup> See footnote 2 regarding the source of the arrest data. Enrollment data are found in: MSDE, Maryland Public School Enrollment by Race/Ethnicity and Gender and Number of Schools as of September 30, 2015, September 30, 2016, September 30, 2017, September 30, 2018, September 30, 2019. The rates were calculated in accordance with the methodology described in Sunderman (2018), except that we are reporting arrests per 10,000 students, not 1,000 students. Gail L. Sunderman and Erin Janulis, "When law enforcement meets school discipline: School-related arrests in Maryland 2015-16," College Park, MD: Maryland Equity Project, The University of Maryland (2018), <https://education.umd.edu/research/centers/mep/research/k-12-education/when-law-enforcement-meets-school-discipline-school>. These are arrests by SROs and other law enforcement on school grounds. The data reports do indicate the number of arrests and referrals by SROs, but do not provide sufficient detail on SRO arrests to calculate SRO arrest rates by race or by type of offense.



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students who are not receiving special education.<sup>10</sup> This is particularly troubling because of the possibility that many of these students are being harshly disciplined for behavior related to their disability.<sup>11</sup>

**Introduces opportunity for implicit bias.** What is also clear is that research tells us that these differences in treatment by law enforcement cannot be explained by claims that Black students engaged in more problematic behavior. It is all too clear that implicit bias comes into play in the administration of school discipline, starting with teachers' perceptions of and responses to student behavior.<sup>12</sup> The presence of SROs provides an opportunity for the implicit bias of school leaders, staff, and police to result in disparate treatment of students of color.

Notably, a high proportion of the offenses for which Black students have been arrested fall into the category of "discretionary offenses." While we do not know the facts of each of the arrests made in Montgomery County schools during the past 5 years, we do know that Black students accounted for a disproportionate share of arrests for offenses that require a subjective determination and need not be charged as a crime at all. These include attacks, fighting, disruption, and threats that are charged as misdemeanors.

- In 2019-20, all 11 students arrested for attacks were students of color, including nine Black students. Only one White student was arrested for a discretionary offense (fighting).
- In 2018-19, Black students were at least four times more likely to be arrested for attacking another student than were White students. In addition, Black males were the only students arrested for disruption and Black females the only ones arrested for fighting.
- In 2017-18, Black students accounted for 62 percent of the arrests for threats to students while there were fewer than 10 arrests of White students for this offense. Black students accounted for 78 percent of the 18

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<sup>10</sup> Calculated using the arrest and public school enrollment data referred to in footnotes 2 and 8 and the special education census data reported by MSDE on October 1, 2015, October 1, 2016, October 1, 2017, and October 1, 2018. See, for example, MSDE. Early Intervention and Special Education Services Census Data and Related Tables. October 1, 2018, <http://www.marylandpublicschools.org/about/Documents/DCAA/SSP/20182019Student/2019CensusPubSpecEd.pdf>

<sup>11</sup> Merkwae (2015).

<sup>12</sup> Maryland Commission on the School-to-Prison Pipeline, Final Report and Collaborative Action Plan, Report to the Maryland Governor and General Assembly pursuant to House Bill 1287(2017) (December 20, 2018): 29-30, <https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/023600/023694/20190078e.pdf> ; See also Adai Tefera, Genevieve Siegel-Hawley, and Rachel Levy, "Why do racial disparities in school discipline exist? The role of policies, processes, people, and places," Richmond, VA. Metropolitan Educational Research Consortium (2017): 5, [https://scholarscompass.vcu.edu/cgi/viewcontent.cgi?article=1103&context=merc\\_pubs](https://scholarscompass.vcu.edu/cgi/viewcontent.cgi?article=1103&context=merc_pubs); Cheryl Staats, Implicit Racial Bias and School Discipline Disparities (May 2014) Kirwan Institute Special Report, <http://www.racialequityresourceguide.org/resource/implicit-bias-and-school-discipline-disparities>.



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arrests made for disruption and White students accounted for only two arrests. Only Black students were arrested for fighting. No White students were arrested for attacks on students or fighting.

- In 2016-17, Black students accounted for 56 percent of 73 arrests for attacks, while fewer than 10 White students were arrested for this offense.
- In 2015-16, 13 Black students were arrested for disorderly conduct, but no White students. In that same year, 27 incidents involving Black students were treated as assaults, compared to no more than 4 arrests of White students for assault.

**Causes significant harm to students.** The harm to students cannot be overstated. Leaders need to understand that a single arrest of a student, regardless of whether there is a conviction for the offense, can have negative life-altering consequences. An arrest affects how the student feels about school and him or herself and the response from school officials and teachers in the future. Arrests in MCPS are typically accompanied by out-of-school suspensions and a referral to the Department of Juvenile Services. Research tells us that out-of-school suspensions put students at risk of academic failure, dropping out, and further behavioral problems. A referral to Juvenile Services means missed instructional time for the students and missed work for a family member. Furthermore, entanglement with Juvenile Services puts students at risk of further involvement with the juvenile justice system.<sup>13</sup> The fact that Black students are disproportionately hurt is a racial inequity that demands attention. We believe that removing SROs from schools would be an effective way to interrupt the school-to-prison pipeline.

**Focus on promoting positive behavior and supporting students.** Instead of sustaining practices that put Black students and others at risk of academic failure, dropping out, and further involvement with the juvenile justice system, we believe the Council should focus on how to ensure that schools receive the staffing and resources they need to take full responsibility for the administration of discipline, in accordance with State law requiring that it be rehabilitative, restorative, and educational.<sup>14</sup> Schools need to have a sufficient number of counselors,

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<sup>13</sup> OLO (2016): 96-97; Daniel J. Losen, Cheri L. Hodson, Michael A Keith II, Katrina Morrison, and Shakti Belway, "Are We Closing the School Discipline Gap?" UCLA: The Civil Rights Project (2015), <https://escholarship.org/uc/item/2t36g571>; Council of State Governments Justice Center, The School Discipline Consensus Report: Strategies from the Field to Keep Students Engaged in School and Out of the Juvenile Justice System (2014), <https://knowledgecenter.csg.org/kc/content/school-discipline-consensus-report>; Justice Policy Institute, "Education under Arrest: The Case Against Police in Schools" (November, 2011), <http://www.justicepolicy.org/research/3177>; Nance (2015); 924, 955; Maya Lindberg, "False Sense of Security," Teaching Tolerance, Issue 50 (2015), <https://www.tolerance.org/print/84138/print>.

National Association of School Psychologists, Effective school discipline policies and practices: Supporting student learning [Research summary]. Bethesda, MD; Author (2018), [file:///C:/Users/Dell/Downloads/School\\_Discipline\\_Congressional\\_Briefing%20\(1\)%20\(2\).pdf](file:///C:/Users/Dell/Downloads/School_Discipline_Congressional_Briefing%20(1)%20(2).pdf).

<sup>14</sup> See HB 725.



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psychologists, social workers or behavioral specialists to provide mental health, trauma-informed, wrap-around and other services aimed at preventing behavioral problems and fostering a positive, supportive environment. Safety experts tell us that a positive school climate is the key to school safety. It must be based on mutual trust, respect, and open communication among all members of the community.<sup>15</sup> Policymakers cannot afford to ignore the students who are saying that the presence of police in MCPS schools makes them feel uncomfortable, threatened or unsafe.

Consistent with the Maryland Safe to Learn Act, safety objectives can be met through the provision of adequate law enforcement coverage, as is the case with our middle and elementary schools now. School officials can continue to work with the MCPD on key elements of school safety such as emergency preparedness plans and threat assessment teams. However, criminalizing student misconduct needs to stop.

**Conclusion.** This bill would not improve racial equity because it does not reduce the probability that Black students will be needlessly arrested or the risk that they will disproportionately experience damaging collateral consequences associated with arrests. The Superintendent should not be provided the option of continuing a practice that puts Black students at risk of being harmed and being subject to differential treatment.

We urge our leaders to put their efforts toward rethinking how best to protect and support all the students. As a starting point, we urge the Council to support Bill 46-20, sponsored by Councilmembers Will Jawando and Hans Riemer, which would prohibit the use of County funds for the deployment of School Resource Officers in our public schools. We see the removal of SROs from our schools as necessary to provide the positive, supportive, and safe learning environments that ALL children deserve to have.

Respectfully,

Diana Conway  
President

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<sup>15</sup> Nance (2016): 979.