

Racial Equity and Social Justice (RESJ) Impact Statement

BILL 7-21: POLICE - SCHOOL RESOURCES OFFICERS- BUILDING POSITIVE LAW ENFORCEMENT RELATIONSHIPS IN SCHOOLS

SUMMARY

By maintaining the School Resource Officer Program, the Office of Legislative Oversight anticipates that Bill 7-21 will not advance racial equity and social justice in the County because it does not prioritize diminishing disparities in student arrests or suspensions by race, income, or disability status.

BACKGROUND

Bill 7-21 seeks to continue the School Resource Officer (SRO) program that assigns 23 Montgomery County Police Department Officers to Montgomery County Public Schools (MCPS) high schools. Bill 7-21, introduced on February 2, 2021, serves as a counter to Bill 46-20, introduced on November 17, 2020, that if enacted would eliminate the SRO program. The County Council is considering both SRO bills at the same time.

Bill 7-21 strives to enhance public safety by (a) continuing the SRO program and (b) building positive relationships between police officers and students. Toward this end, Bill 7-21 seeks to embed community-policing principles into the SRO program. In particular, the bill would require staff training to improve their relationships with students. The goals of community-policing, however, can vary with the audience: while police departments may pursue community policing with the goal of changing community behavior (e.g. reducing criminality), communities' goals for community-policing often focus on changing policing behavior to reduce biased, unconstitutional policing practices and over-policing.¹

Currently, the SRO program operates at an annual cost of \$3 million. Bill 7-21 would continue funding the SRO program and add additional training requirements for SRO's that include de-escalation techniques, mediation and conflict resolution, child and adolescent development, gang prevention and response, truancy prevention, trauma-informed response practices, and restorative justice. These training topics align with a law enforcement goal to change student behavior rather than to change policing behavior and practices to engender greater student trust and community support. It remains unclear how the training requirements for Bill 7-21 align with current SRO training requirements.

If enacted, Bill 7-21 would:

- Authorize the Chief of Police to assign a law enforcement officer to work as a school resource officer in a County school upon the request of the Superintendent of Schools;
- Require enhanced training for a school resource officer;
- Require the County to enter a memorandum of understanding with MCPS governing the assignment of a school resource officer; and
- Generally amend the law governing policing.

Of note, MCPS also operates the School Safety and Emergency Management Program at a cost of \$20 million annually.² The School Safety and Emergency Management Program funds 266 positions, mainly for security assistants and security leaders assigned to MCPS middle and high schools, with a mission similar to the SRO program. However, neither Bill 7-21 nor Bill 46-20 recommends changes to the MCPS School Safety and Emergency Management Program; this program is expected to continue whether the SRO program continues or not.

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As the Council considers the merits of continuing the SRO program, MCPS also continues its review of the SRO program. A MCPS task force was expected to offer recommendations to the Board of Education on whether the SRO program should continue in January. The task force, however, did not offer recommendations then and has been tasked by the Board to do so by May 2021. MCPS principals and representatives from the State's Attorney's Office have expressed support for the SRO program, while MCPS teachers, students, and alumni have voiced support to end the program. The Montgomery County Council of Parent Teacher Associations is still determining its position on SRO's.

As noted in the RESJ statement for Bill 46-20, there are two questions to consider regarding SRO programs:

- Do SRO programs advance safety for all students without unfairly targeting some student subgroups?
- Are SRO programs the best use of scarce resources for improving school climates and student outcomes?

A review of the research suggests "no" responses to both questions. Further, prior research suggests that school-police partnerships, even those aligned with best practices, yield school discipline and arrest rates that disparately impact Black and Latinx students as well as students with disabilities.³ More specifically:

- Data compiled by the U.S. Government Accountability Office demonstrates national racial disparities in school arrests and law enforcement referrals.⁴
- A review of research by the U.S. Commission on Civil Rights finds that schools with SRO's have higher arrest rates, especially for non-serious offenses like disorderly conduct, than schools without SRO's.⁵
- Researchers have shown that racial disparities in school discipline are driven by differential treatment and school-effects more so than by student conduct.⁶
- The Congressional Research Service and others have not found conclusive evidence that the presence of school-based law enforcement has prevented school shootings or had a positive effect on students' perceptions of school safety.⁷ In fact, some researchers have found that Black students feel less safe in schools with police.⁸
- Research studies have identified several effective approaches to improving student safety that include providing more funding for counselors, psychologists, and social workers;⁹ positive behavioral interventions and supports;¹⁰ and restorative justice,¹¹ social and emotional learning,¹² and empathetic discipline programs.¹³

ANALYSIS OF DEMOGRAPHIC DATA

Disparities in school discipline by race and, to a lesser extent by ethnicity, characterize both MCPS's and MCPD's interactions with students. As noted in Tables 1 and 2, Black students accounted for 22% of MCPS enrollment in 2019 but 43% of suspensions and 45% of student arrests. Low-income students and students with disabilities were also over-represented among student suspensions; boys and students with disabilities were also over-represented among student arrests.

The disparities in school discipline by race, ethnicity, income, and special education status are not without consequence.¹⁴ In the short-term, suspensions and arrests can undermine relationships between students and educators essential to school success. Missing instruction due to out-of-school suspensions and expulsions can set students on track for school failure and dropping out of school. In the long-term, school suspensions and arrests also increase students' risks for juvenile and adult criminal justice involvement. The increased risk for criminal justice involvement associated with being suspended, expelled or arrested in schools is referred to as the School-to-Prison Pipeline or the School-to-Prison Nexus.

The over-representation of Black students, boys, low-income students and students with disabilities among suspended and arrested students on MCPS campuses is consistent with state and national trends demonstrating the disproportionate representation of these students subgroups among suspended and arrested students.

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Table 1: MCPS Enrollment and Out-of-School Suspensions by Race, Ethnicity, Income and Special Education

	Student Enrollment (2018-19)	Out-of-School Suspensions (2018-19)	Difference
Race and Ethnicity			
White/Asian/Other	47%	20%	-27%
Black	22%	43%	+21%
Latinx	32%	36%	+4%
Other Characteristics			
FARMS/Low-Income	36%	58%	+22%
Special Education	13%	26%	+13%
Total Number	164,679	2,630	

Sources: OLO analysis of Montgomery County Public Schools Data

Table 2: MCPS Enrollment and School Arrest by Race, Ethnicity, Gender and Special Education

	Student Enrollment (2018-19)	School Arrest (2018-19)	Difference
Race and Ethnicity			
Asian	14%	*	n/a
Black	22%	45%	+23%
Latinx	32%	34%	+2%
White	28%	20%	-8%
Two+/Other	7%	n/a	n/a
Other Characteristics			
Male	52%	82%	+30%
Special Education	13%	25%	+12%
Total Number	164,679	163	

Note: * Less than 10 arrests. Source: OLO analysis of MCPS and Maryland Public Schools Arrest Data

So what accounts for the over-representation of these student subgroups and Black students in particular among students sanctioned in schools? Researchers have identified and studied three potential explanations:

- **Differences in student behaviors:** Disparities in school discipline reflect differences in student behavior among different student subgroups (e.g. Black students demonstrate higher rates of misconduct).¹⁵
- **Between-school sorting:** Schools enrolling higher concentrations of Black and low-income students employ stricter disciplinary practices than schools with lower concentrations of such students.¹⁶
- **Differences in treatment and support for students with similar behaviors:** For example school-based staffs treat Black and other student subgroups over-represented in school discipline statistics more harshly than student subgroups under-represented among sanctioned students.¹⁷

While there are examples of studies that support each of these explanations, the consensus among most researchers is that differences in treatment and support for students with similar behaviors and between-school sorting are stronger drivers of disparities in school discipline than differences in student conduct by race, ethnicity, or income. For example:

- Skiba and Williams find that there is almost no support in the research literature that disparities in school discipline by race or ethnicity arise due to differences in behavior. Relying on multivariate statistics, they find that race and ethnicity remain strong predictors of suspensions and expulsions even after for controlling for the severity of student behavior

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and teachers' ratings of student behavior. They conclude, "(t)here is simply no good evidence that racial differences in discipline are due to differences in rates or types of misbehavior by students of different races."¹⁸

- Ramey finds that minority-majority schools or schools serving a combination of students of color and low-income students were more likely to use exclusionary discipline tactics while schools serving predominantly low-income White students were more likely to encourage parents to seek behavioral (e.g. ADHD) diagnoses for their children in order to qualify for special education services.¹⁹
- Owens and McLanahan find in their analysis of the Fragile Families and Child Well Being Study that differential treatment and support by race for students with common needs accounted for 46 percent of the Black/White gap in suspensions among elementary students, while between-school sorting and differences in student behavior account for 21 percent and 9 percent of the gap respectively.²⁰

Tables 3 and 4 show that out-of-school suspensions in MCPS have increased by five percent since 2016-17, while student arrests have declined by 46 percent since 2015-16. This compares to a two percent increase in student enrollment since 2016-17, so the decline in student arrests is especially significant. However, disparities in discipline and arrests persist by race, gender, income, and disability status for arrest groups. For example, Black students accounted for 40 percent of arrests in schools in 2015-16 compared to 45 percent of such arrests in 2018-19.

Table 3: Trend Data on Out-of-School Suspensions by Race, Ethnicity, Income and Special Education

	2016-17	2017-18	2018-19	% Change
Total Suspensions	2,515	2,507	2,630	+5%
Race and Ethnicity				
White/Asian/Other	528	488	535	+1%
Black	1,120	1,154	1,143	+2%
Latinx	867	865	952	+10%
Other Characteristics				
FARMS/Low-Income	1,562	1,449	1,516	-3%
Special Education	651	622	692	+6%

Sources: OLO analysis of Montgomery County Public Schools Data

Table 4: Trend Data on School Arrests by Type, Race, Ethnicity, Gender and Special Education

	2015-16	2016-17	2017-18	2018-19	%Change
Total Arrests	304	349	226	163	-46%
SRO Arrests	163	188	151	120	-26%
Race and Ethnicity					
Asian	12	12	*	*	-
Black	121	144	137	73	-40%
Latinx	98	111	55	55	-44%
White	61	*	16	32	-48%
Two+/Other	12	19	12	n/a	-
Other Characteristics					
Male	243	266	180	133	-45%
Female	61	63	46	30	-51%
Not Special Education	251	261	181	122	-48%
Special Education	53	88	45	41	-23%

Note: * Less than 10 arrests. Source: Maryland Public Schools Arrest Data

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Table 5 shows the significant overlap between student arrests and suspensions over time. In 2018-19, nearly 9 in 10 students arrested were also suspended compared to 8 in 10 students in 2015-16. Thus the vast majority of students arrested in schools are doubly punished by MCPD and MCPS. Possession of controlled substances, assaults and threats against students, possession of other weapons (not firearms), thefts, and disorderly conduct comprised 60 to 85 percent of arrests between 2015-16 and 2018-19. A third of students arrested were also suspended from MCPS for 10 or more days during this time frame.

Table 5: Trend Data on School Arrests by Suspensions and Arresting Offense

	2015-16	2016-17	2017-18	2018-19
Total Arrests	304	349	226	163
Arrests with Suspensions	237	278	190	144
Arrests with 10 Day + Suspensions	91	91	85	61
Arresting Offense				
CDS Possession	102	123	40	48
Assault, Attack or Threat Against Student	54	73	66	31
Other Weapon (not Firearm)	*	55	49	27
Theft	14	26	17	*
Disruption, Disorderly Conduct	18	14	18	*

Note: * Less than 10 arrests. Source: Maryland Public Schools Arrest Data

Finally, an analysis of student arrest data finds that five of MCPS' 25 comprehensive high school campuses accounted for nearly half (49 percent) of all student arrests between 2016-17 and 2018-19:

- Bethesda-Chevy Chase High School (72 arrests),
- Watkins Mill High School (62 arrests),
- Northwest High School (48 arrests),
- Paint Branch High School (42 arrests), and
- Clarksburg High School (39 arrests).

ANTICIPATED RESJ IMPACTS

If differences in student behavior or need by race were the primary drivers of racial disparities in school discipline and arrest rates in MCPS, then continuing the SRO program with strengthened training requirements focused on de-escalation, trauma-informed practices, and the like might be effective at reducing racial disparities in school discipline and arrests. But there is no evidence that student behavior or need determine racial disparities in school discipline or arrests in the County.

Research instead suggests that differences in treatment and support for students by race (i.e. implicit bias and discrimination) explain most of the racial disparities in suspensions and student arrests evident across public school systems. If differential treatment and support are the drivers of racial disparities in student arrests and out-of-school suspensions for MCPS (e.g. Black children are treated more harshly than others with similar behaviors and needs), continuing the SRO program as is would not improve racial equity and social justice within the County.

METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

This RESJ impact statement and analysis relies on several sources of information, including Maryland Public Schools Arrest Data²¹ and MCPS at a Glance.²² Additionally, OLO relied on the following sources for background information:

- School Resource Officers in Schools, A Report to the Board of Education of Howard County, September 2020;²³

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- Maryland Equity Project, When Law Enforcement Meets School Discipline: School-Related Arrests in Maryland 2015-16;²⁴ and
- Education Civil Rights Alliance and American Federation of Teachers, Police in Schools: A Background Paper.²⁵

OLO recognizes that Bill 7-21 may generate effects beyond impacting rates of student arrests or school discipline actions. Bill 7-21 may impact police personnel, school administrators and staff, students, and school communities at large. Over and above what has been stated, OLO cannot predict whether these additional potential impacts will disparately impact persons of color and/or low-income residents.

RECOMMENDED AMENDMENTS

The County's Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequalities are warranted in developing RESJ impact statements.²⁶ As noted, the SRO program's mission is to enhance the safety and security of the learning environment for students and staff. The SRO program, however, may have an unintended impact of reducing the safety and security of Black, low-income, and male students, and of students with disabilities, by criminalizing behaviors and actions that at best warrant a response from the MCPS Code of Conduct.

Researchers have identified several best practices for improving school safety that can meet the needs of all students, especially those harmed by current disparities in school discipline. These practices include:

- More funding for counselors, psychologists, and social workers;²⁷
- Expanding positive behavioral interventions and supports;²⁸
- Expanding restorative justice,²⁹ social and emotional learning,³⁰ and empathetic discipline programs.³¹

Research findings on the differential treatment and between-school effects as the primary drivers of racial disparities in school discipline suggest that policies and practices aimed at eliminating implicit bias and promoting school integration could also be effective at improving discipline equity in the County. Toward this end, Bill 7-21 could be amended to require:

- Training for SRO's and school administrators on implicit and explicit bias to counter the potential differential treatment of Black, Latinx, and low-income students and students with disabilities in the school discipline process.
- The SRO program to partner with MCPS to develop and implement a racial equity and social justice action plan aimed at reducing disparities in student discipline and arrests as part of its memorandum of understanding requirements.
- MCPD and the Board of Education to provide additional resources and supports to the schools with the highest suspension and student arrest rates to enable them to adopt best practices aimed at reducing disparities and criminal sanctions for fairly minor infractions (e.g. disorderly conduct, fighting).

As noted in the RESJ statement for Bill 46-20, OLO's School-to-Prison Pipeline report also offers a number of observations for aligning County practices to best practices for reducing the School-to-Prison Pipeline. These observations could be considered as recommended amendments for Bill 7-21 to prioritize reducing inequities and disparities in student arrests and sanctions. A summary of these observations follows.

Opportunities to Align Local Law Enforcement and Juvenile Justice Agencies Practices with Best Practices

- Engage with community stakeholders to annually review data and evaluate the SRO program
- Improve data systems to track the experiences of youth across agencies to evaluate the efficacy of current programs aimed at stemming the School-to-Prison Pipeline and supporting program improvements

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- Regularly review SRO arrest and juvenile court data to develop action plans to reduce referrals for minor offenses if warranted
- Consistently use school-based data and risk assessments to guide diversion decision-making

Opportunities to Align Montgomery County Public Schools Practices with Best Practices

- Develop a district-wide school climate plan that identifies needs and resources and monitors results
- Use early warning indicators to identify students in need of supports district-wide
- Assess students behavioral health and related needs and the districts' capacity to meet those needs
- Engage in a collaborative process with community stakeholders to annually review data and the implementation of the Code of Conduct and the SRO Program with MCPD

Finally, OLO Report 2016-6 offered recommendations for action from Community Stakeholders that can also be considered as recommended amendments for Bill 7-21. A summary of opportunities community members identified for improving local approaches to reversing the School-to-Prison pipeline follows:

- Deliver more services to address root causes
- Require schools to respond to challenging behaviors therapeutically
- Increase parent and youth awareness of rights and available services
- Enhance youth's long-term relationships with adults
- Improve coordination and data sharing among agencies and organizations
- Expand diversion opportunities for low-income youth
- Make schools engaging for high-risk youth
- Increase job and income-generating opportunities for high-risk youth

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffer Elaine Bonner-Tompkins drafted this RESJ statement.

¹ Elaine Bonner-Tompkins and Natalia Carrizosa, Local Policing Data and Best Practices, OLO Report 2020-9, July 21, 2020 <https://www.montgomerycountymd.gov/OLO/Resources/Files/2020%20Reports/OLOReport2020-9.pdf>

² OLO estimate of Department of System-wide Safety and Emergency Budget based on FY22 MCPS Operating Budget and FY17 MCPS Program Budget of \$16 million for School Security Program.

³ Elaine Bonner-Tompkins, Leslie Rubin, and Kristen Latham, The School to Prison Pipeline in Montgomery County, OLO Report 2016-6, March 1, 2016

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⁴ Jacqueline M. Nowicki, K-12 Education: Discipline Disparities for Black Students, Boys, and Students with Disabilities, United States Government Accountability Office, March 2018 <https://www.gao.gov/assets/700/690828.pdf>

⁵ U.S. Commission on Civil Rights, BEYOND SUSPENSIONS Examining School Discipline Policies and Connections to the School-to-Prison Pipeline for Students of Color with Disabilities, Briefing Report, July 2019. <https://www.usccr.gov/pubs/2019/07-23-Beyond-Suspensions.pdf>

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https://www.researchgate.net/publication/285980423_School_Resource_Officers_and_Students'_Feelings_of_Safety_at_School

⁹ Beyond Suspensions

¹⁰ Center on Positive Behavior in Schools (PBIS) <https://www.pbis.org/pbis/getting-started>

¹¹ Anne Gregory and Katherine R. Evans, The Starts and Stumbles of Restorative Justice in Education: Where Do We Go from Here? January 14, 2020, National Education Policy Center, Colorado University.

<https://nepc.colorado.edu/publication/restorative-justice>

¹² The Collaborative for Academic, Social, and Emotional Learning (CASEL) <https://casel.org/impact/>

¹³ Jason A. Okonofua, David Paunesku, and Gregory M. Walton, Brief intervention to encourage empathic discipline cuts suspension rates in half among adolescents, May 2016, Proceedings of the National Academy of Sciences of the United States of America (PNAS). Princeton University, Princeton, NJ. <https://www.pnas.org/content/113/19/5221>

¹⁴ Andrew Bacher-Hicks, Stephen Billings, and David Deming, The School to Prison Pipeline: Long-Run Impacts of School Suspensions on Adult Crime, National Bureau of Economic Research, Working Paper 26257, September 2019

¹⁵ John Wright, Mark Morgan, Michelle Coyne, Kevin Beaver, and J.C. Barnes, "Prior Problem Behavior Accounts for the Racial Gap in School Suspensions", *Journal of Criminal Justice* 42(3), 2014

¹⁶ David Ramey, "The Social Structure of Criminalized and Medicalized School Discipline," *Sociology of Education* 88(3), 2015

¹⁷ Jason Okonofua and Jennifer Eberhardt, "Two Strikes: Race and the Disciplining of Young Students," *Psychological Science* 26(5), 2015

¹⁸ Russell Skiba and Natasha Williams, "Are Black Kids Worse? Myths and Facts about Racial Differences in Behavior." The Equity Project at Indiana University. Bloomington, IN: Indiana University

¹⁹ Ramey

²⁰ Jayanti Owens and Sara McLanahan, "Unpacking the Drivers of Racial Disparities in School Suspension and Expulsion," *Social Forces* 98(4), June 2020

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²² Board of Education, MCPS Schools at a Glance, 2018-19 School Year, MCPS, Montgomery County, Maryland

²³ Kevin Gilbert, Thomas McNeal, and Anissa Dennis, School Resource Officers in School, Howard County Public School System, September 24, 2020, Howard County, Maryland.

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²⁶ Montgomery County Council, Bill No. 27-19 Racial Equity and Social Justice, Montgomery County, MD.

²⁷ Beyond Suspensions

²⁸ Center on PBIS

²⁹ The Starts and Stumbles of Restorative Justice in Education: Where Do We Go from Here?

³⁰ CASEL

³¹ PNAS