REVIEW OF
MONTGOMERY COUNTY PUBLIC SCHOOLS' "SERIOUS INCIDENT" REPORTING

OFFICE OF LEGISLATIVE OVERSIGHT
REPORT NUMBER 2007-1

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SUMMARY OF RECOMMENDATIONS

Educators, parents, and policy-makers agree that schools should be "safe havens" for teaching and learning. Disruptive school behavior impedes the learning process and student achievement. Although national research finds that schools are generally very safe places for children and trends in student victimization declined over the past decade, schools are not entirely free of crime and other disruptive behavior.

As stated in the U.S. Departments of Education's and Justice's 2005 joint report on school crime and safety, any efforts to address issues of school safety must begin with an accurate understanding of the extent and nature of the problem:

> [I]t is difficult to gauge the scope of crime and violence in schools without collecting data, given the large amount of attention devoted to isolated incidents of extreme school violence. Ensuring safer schools requires establishing good indicators of the current state of school crime and safety across the nation and periodically monitoring and updating these indicators. (*Indicators of School Crime and Safety*, NCES, 2005)

Based on the premise that an informed discussion of school safety in Montgomery County should begin with the compilation and sharing of accurate information about the extent and nature of the problem, the Office of Legislative Oversight recommends that the County Council:

- Recommend to the Board of Education and Superintendent of Schools that MCPS adopt, by April 2007, an action plan for the preparation, use, and public release of a "School Safety Report." This School Safety Report should provide easily understood, reliable, and valid data on incidents of crime and disruptive behavior that occur on school sites, on buses, or at school-sponsored events, and information on steps that MCPS is taking to promote and maintain a safe learning environment.

- Communicate the Council's expectation to the Board of Education, County Executive, and State's Attorney that, by November 2006, agency representatives from MCPS, the Police Department, and the State's Attorney's Office will execute a Memorandum of Understanding for sharing information and conducting investigations of suspected criminal incidents involving MCPS students.

- Explore the merits of pursuing State legislation that, patterned after laws adopted in other states, would require all public school districts in Maryland to track and publicly report certain school safety data.

THE ASSIGNMENT

At the request of the County Council, the Office of Legislative Oversight examined the Montgomery County Public Schools' policies and practices for identifying, tracking, and reporting information about "serious incidents" that occur on MCPS sites. OLO's study included:

- Review of the national research on school safety;
- Examination of laws that require MCPS to track information about incidents that occur in schools;
- Examination of laws that govern how MCPS shares information about serious incidents with law enforcement and with the public;
- Review of MCPS' policies and practices for reporting and recording information about incidents;
- Interviews with various stakeholders to obtain feedback on MCPS' practices of collecting and sharing incident data; and
- Comparative research on how other states and school systems report, track, and publicly disclose information about incidents that occur in schools.

MCPS must comply with federal and state laws on reporting data about suspensions, expulsions, and bullying. MCPS must simultaneously adhere to laws that address students' privacy rights.

Three federal laws require all states to report data to the U.S. Department of Education about school incidents resulting in suspensions and/or expulsions: the Safe and Drug-Free Schools and Communities Act; the Gun-Free Schools Act; and the Individuals with Disabilities Education Act. In Maryland, local school districts report suspension and expulsion data to the Maryland State Department of Education (MSDE), which then submits these data to the federal government.

Under the Maryland Safe Schools Reporting Act of 2005, local school districts must also report incidents of harassment or intimidation (bullying). MSDE prepares annual reports that contain data on suspensions, expulsions, and bullying incidents; these reports are available to the public on MSDE's website.

When releasing any information from student records, schools must comply with federal and state privacy laws, which prohibit schools from publicly releasing "personally identifiable information" about students without parental permission. In sum, the laws and regulations protecting student privacy do not prohibit school districts from releasing information from student records to the public as long as the information does not contain "personally identifiable information" about individual students.

MCPS' TRACKING OF SERIOUS INCIDENTS

MCPS first adopted policies for identifying "serious incidents" that occur in schools in the early 1970s. In 2004, MCPS started the process of replacing the computer database that it had used to record serious incident data since 1993. MCPS' new Incident Reporting System (IRS) will allow the school system to track information that it could not track with the previous database, including:

- Name(s) and identification number(s) of student involved in serious incidents;
- The geographic location of a serious incident on an MCPS site;
- Injuries inflicted during serious incidents;
- Gang involvement in serious incidents; and
- Value of damage or loss to property caused during a serious incident.

With implementation of the new system, MCPS will be able to analyze incident data both by individual school and systemwide. All MCPS schools are scheduled to be using the new IRS by December 2006.

MCPS' DEFINITION OF "SERIOUS INCIDENT": A *serious or unusual incident* is any incident that occurs on an MCPS site, or in connection with a school-related activity, that may be classified into the following categories:

1. Safety/Health
   a) Any incident resulting in death or serious injury of any person on an MCPS site
   b) Bomb threats or explosive devices on MCPS sites
   c) Fire
   d) A request for emergency medical assistance
   e) Serious property damage that results in disruption of the school day
   f) Substantial or critical malfunction of essential equipment, facilities, and/or services
   g) Serious abuse or assault (physical/sexual) of any person
   h) Serious abuse of any person that is based on sexual harassment, race, religion, or ethnic background
   i) Weapons

2. Security/Discipline
   a) A request for police assistance
   b) Behavior that results in potential or actual disruption of the planned school day
   c) Portable communication devices

Source: MCPS Regulation COB-RA, *Reporting a Serious Incident*

Until recently, the primary purpose for MCPS' serious incident data collection efforts has been to ensure a prompt and appropriate response by school administrators and staff to specific incidents. Within MCPS, Office of School Performance staff routinely notify the following individuals when a serious incident occurs:

- Members of the Board of Education
- Chief of Staff to the Superintendent
- Deputy Superintendent of Schools
- Chief Operating Officer
- Deputy Superintendent, Information and Organizational Systems

- Director of the Department of School Safety and Security
- Director of the Public Information Office
- Community Superintendents
- Chief School Performance Officer
- Executive Assistant to the Chief School Performance Officer.

Sharing with the Community

MCPS policy authorizes principals to decide when to send letters home with students at the end of a school day about a serious incident, if the principal believes that the incident "threatens the health, safety, or security of students or staff, or there is a likelihood of community concern about the incident." Members of the public can also obtain information about serious incidents by filing an application under Maryland's Public Information Act with MCPS' Public Information Office. MCPS' practices do not currently include the routine sharing of all serious incident data with the community.

Sharing with Law Enforcement

Maryland law and regulation require MCPS and the Montgomery County Police Department to share information about certain crimes that occur in schools and about students arrested in the community for certain offenses. For the past year, representatives from MCPS, the Montgomery County Police Department, and the State's Attorney's Office have been meeting to negotiate the details of an inter-agency Memorandum of Understanding regarding the sharing of information about students involved in criminal incidents and the investigation of suspected criminal incidents that occur on MCPS sites.

FEEDBACK ON PUBLIC REPORTING OF INCIDENTS

OLO spoke with a wide range of individuals both within and outside of the school system, including: Board of Education members; MCPS staff; parents; law enforcement officials, and staff from other County agencies. A consistent view expressed was strong interest in obtaining reliable, valid, and easily-understood information about the extent and nature of crime, violence, and other disruptive behavior that occurs in schools. Similarly, broad interest was voiced in knowing what actions school administrators are taking to address incidents that have occurred, and to promote and maintain a safe learning environment.

Parents want to be able to discuss situations that occur in school with their children and counsel them accordingly. Parents appreciate the letters received from principals about incidents, although a commonly held perception is that MCPS does not consistently share information about all serious incidents.

While Board of Education members and many MCPS administrators and staff expressed interest in pursuing suggestions for an increased sharing of serious incident data, some MCPS representatives voiced concerns about doing so. In particular, concerns were articulated about violating students' privacy rights and creating an unfair public impression that schools are "unsafe" places. Another challenge cited was determining how to communicate complex information about serious incidents in a clear and informative way.

Staff in other County agencies spoke of both an ongoing interest and need for information about certain types of serious incidents that occur in schools. Specifically, law enforcement representatives expressed a need to know about incidents of crime that require response and/or investigation by the Police Department, the Montgomery County Fire and Rescue Service, and/or the State's Attorney's Office.

Although national data indicate decreasing trends in rates of student victimization over the past decade, incidents of crime and other disruptive behavior at school still occur. The Centers for Disease Control and Prevention reported the following survey results in 2005 on crime and violence among high school students:

- Nationwide, 29.8% of students had their property (e.g., clothing, books, car) stolen or intentionally damaged on school property at least once in the 12 months preceding the survey;
- Nationwide, 13.6% of students were in a physical fight on school property one or more times in the 12 months preceding the survey;
- Nationwide, 6.5% of students had carried a weapon (e.g., a gun, knife, or club) on school property one or more times in the 30 days preceding the survey; and
- Nationwide, 6% of students had not gone to school at least one day in the 30 days preceding the survey because they felt they would be unsafe at school or on their way to or from school.

STATE LAWS GOVERNING INCIDENT REPORTING PRACTICES

State laws in a majority of states require schools to collect and report information to state or local agencies about incidents of crime that occur in schools. These statutes most often require schools to report criminal incidents such as arson, assaults, drug offenses, sex offenses, vandalism, and weapon possession. In addition, some states use these data for determining whether schools are "persistently dangerous" under the federal No Child Left Behind Act of 2001 (NCLB). The table below lists states by the different types of incident reporting requirements.

Many state and local agencies publicly release information about school-based incidents in different ways, including written reports to state legislatures and the posting of data on agency websites. Examples of data included in these reports are:

- The number, type, and locations of incidents occurring at schools;
- Actions taken by schools in response to specific incidents, such as suspensions, expulsions, referrals to law enforcement, or counseling; and
- Characteristics (e.g., gender, race/ethnicity) of the students involved in incidents.

In addition, at least 20 states, including Maryland, have laws explicitly addressing when school administrators must report suspected criminal incidents that occur at school to law enforcement.

CLASSIFICATION OF STATES BY INCIDENT REPORTING REQUIREMENTS

State law requires reporting of school incidents *and* state uses incident data to identify "Persistently Dangerous Schools" under NCLB.	Arkansas	Georgia	Nevada	Rhode Island
	California	Kentucky	New Jersey	South Carolina
	Colorado	Michigan	New York	Tennessee
	Delaware	Mississippi	North Carolina	Virginia
	District of Columbia	Missouri	Pennsylvania	
State law requires reporting of school incidents.	Alabama	Hawaii	Massachusetts	Oklahoma
	Alaska	Illinois	Minnesota	Texas
	Florida	Kansas	New Mexico	Washington
State uses incident data to identify "Persistently Dangerous Schools" under NCLB.	Arizona	Maine	Ohio	
	Idaho	Montana	South Dakota	
	Indiana	New Hampshire	West Virginia	
Other*	Connecticut	**Maryland**	Oregon	Wisconsin
	Iowa	Nebraska	Utah	Wyoming
	Louisiana	North Dakota	Vermont	

*Laws in these states only require reporting of incidents of bullying/harassment and/or the collection of suspension/expulsion data, except for Wyoming, which collects incident data under its interpretation of the federal Safe and Drug-Free Schools and Communities Act.

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A list of the documents in the Appendix is on page vii. These documents are available electronically through a link from the Office of Legislative Oversight's website:

www.montgomerycountymd.gov/csltmpl.asp?url=/content/council/olo/reports/2007.asp.

LIST OF TABLES

APPENDIX

The documents in this Appendix are available electronically through a link from the Office of Legislative Oversight's website:

www.montgomerycountymd.gov/csltmpl.asp?url=/content/council/olo/reports/2007.asp.

CHAPTER II HIGHLIGHTS OF NATIONAL RESEARCH ON SCHOOL SAFETY AND THE USE OF INCIDENT DATA	DOCUMENT NUMBER
Order in the Classroom: Violence, Discipline, and Student Achievement, Educational Testing Service (October 1998).	1
Safe Schools Manual: A Resource on Making Schools, Communities, and Families Safe for Children, National Education Association (2005).	2
Indicators of School Crime and Safety: 2005, National Center for Education Statistics, U.S. Department of Education and Bureau of Justice Statistics, U.S. Department of Justice (2005).	3
Juvenile Offenders and Victims: 2006 National Report, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice (March 2006).	4
Wide Scope, Questionable Quality: Drug and Violence Prevention Efforts in American Schools, U.S. Department of Education (August 2002).	5
"Youth Risk Behavior Surveillance – United States, 2005," 55 *Morbidity and Mortality Weekly Report* (June 9, 2006).	6
Safety in Numbers: Collecting and Using Crime, Violence, and Discipline Incident Data to Make a Difference in Schools, Crime, Violence, and Discipline Task Force, National Center on Education Statistics (July 2002).	7
CHAPTER III OVERVIEW OF MCPS' TRACKING AND REPORTING OF SERIOUS INCIDENT INFORMATION	DOCUMENT NUMBER
Memorandum from Associate Superintendent for Administration Joseph Tarallo to All Principals (September 12, 1973).	8
MCPS Regulation COB-RA, *Reporting a Serious Incident*	9
MCPS Form 270-3, *Report of a Serious School Incident*	10
MCPS "Guidelines for Reporting Serious Incidents to the Office of School Performance" from the *Principal's Handbook*	11
MCPS Sample Letters from *Principal's Handbook* Acknowledging Serious Incidents	Acknowledgement of Incident – No Interruption to the School Day	12
	Acknowledgement of Incident – Interruption of School Day; Students Moved to Alternative Location, but will Return to School the Next Day	13
	Acknowledgement of Incident – Interruption of School Day; Students Moved to Alternative Location; School Building Closed	14

CHAPTER IV — FEDERAL AND STATE REQUIREMENTS FOR INCIDENT DATA REPORTING		DOCUMENT NUMBER
Safe and Drug-Free Schools and Communities Act	20 U.S.C. § 7102.	15
	20 U.S.C. § 7112.	16
	20 U.S.C. § 7116.	17
Gun-Free Schools Act	*Relevant Federal Law* 20 U.S.C. § 7151.	18
	Relevant State Law Annotated Code of Maryland, Education, § 7-305.	19
	Relevant State Regulation Code of Maryland Regulations title 13A, § 08.01.12-1.	20
No Child Left Behind Act of 2001 – Unsafe School Choice Option	*Relevant Federal Law* 20 U.S.C. § 7912.	21
	Relevant State Regulation Code of Maryland Regulations title 13A, § 08.01.18.	22
Individuals with Disabilities Education Act	20 U.S.C. § 1418.	23
2006 Maryland Student Records System Manual		24
Maryland Safe Schools Reporting Act of 2005	Annotated Code of Maryland, Education, § 7-424.	25
Harassment and Intimidation (Bullying) in Maryland Public Schools: A Report to the Maryland General Assembly on Incidents Reported Under the Safe Schools Reporting Act of 2005, Maryland State Department of Education (March 31, 2006).		26
CHAPTER V — LEGAL FRAMEWORK FOR SHARING SERIOUS INCIDENT DATA WITH LAW ENFORCEMENT AND THE PUBLIC		DOCUMENT NUMBER
Arrest for Reportable Offense	Annotated Code of Maryland, Education Article, § 7-303.	27
Reporting Delinquent Acts	Code of Maryland Regulations Title 13A, § 08.01.15.	28
Authority of Montgomery County Fire and Explosive Investigator and Authority of State Fire Marshall	Annotated Code of Maryland, Criminal Procedure Article, § 2-208.1.	29
	Annotated Code of Maryland, Criminal Procedure Article, § 2-208.	30
Family Educational Rights and Privacy Act (FERPA)	20 U.S.C. § 1232g	31
Maryland Public Information Act	Annotated Code of Maryland, Governmental Procedures, § 10-612.	32
	Annotated Code of Maryland, Governmental Procedures, § 10-616.	33
Prior Parental Consent for Disclosure of Information from Student Records	Code of Maryland Regulations title 13A, § 08.02.18.	34

CHAPTER V (CONT.)		DOCUMENT NUMBER
MCPS Policies and Regulations	Policy KBA, *Policy on Public Information*	35
	Policy KBB, *Release of Data*	36
	Regulation JOA-RA, *Student Records*	37
	Regulation EGI-RA, *Release of Information on Students and Employees*	38
	Regulation EGH-RA, *Preparation of Statistical Reports*	39

CHAPTER VII COMPARATIVE INFORMATION ON INCIDENT REPORTING PRACTICES	DOCUMENT NUMBER
Charlotte-Mecklenburg, North Carolina	
North Carolina General Statutes § 115C-12.	40
North Carolina General Statutes § 115C-288.	41
2004-2005 Annual Report on School Crime and Violence, North Carolina Department of Public Instruction (2005).	42
Fairfax County, Virginia	
Virginia Code Annotated § 22.1-279.3:1.	43
Fairfax County Public Schools Regulation 2608.2, *Reporting Serious and Unusual Incidents* (2004) and "Serious Incident Report" Form	44
Annual Report Discipline, Crime, and Violence: School Year 2004-2005, Virginia Department of Education (April 2006).	45
Jefferson County, Kentucky	
Kentucky Revised Statutes § 158.444.	46
Kentucky Revised Statutes § 158.154.	47
Kentucky Revised Statutes § 158.155.	48
Kentucky Revised Statutes § 158.990.	49
2004-2005 District Report Card from Jefferson County, Kentucky	50
Palm Beach County, Florida	
Florida Statutes Annotated § 1006.09.	51
Florida Statutes Annotated § 1006.13.	52
Statewide Report on School Safety and Discipline Data 2004-2005, Florida Department of Education (January 2005).	53
Florida Administrative Code Annotated r. 6A-1.09982.	54
Clery Act	
Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act")	28 U.S.C. § 1092.

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act")	28 U.S.C. § 1092.	55
2005 Annual Security Report from Montgomery College		56

CHAPTER I. Authority, Scope, and Organization of Report

A. Authority

Council Resolution 15-1092, *FY 2006 Work Program of the Office of Legislative Oversight*, adopted July 26, 2005.

B. Scope of Review

As a follow-up to the Office of Legislative Oversight's report on services to juvenile victims and witnesses of crime (OLO Report 2005-4), the County Council requested a review of Montgomery County Public Schools' process for identifying, tracking, and reporting what MCPS defines as "serious incidents." Unless otherwise indicated, this OLO report uses the term "serious incident" as defined by MCPS. (Table 1-1, page 2)

OLO's study included:

- Review of the research on school safety, with a focus on measuring the scope and effect of crime and violence in schools;
- Examination of federal and state laws that require MCPS to track certain information about incidents that occur in schools;
- Examination of federal and state laws that govern how MCPS shares information about serious incidents with law enforcement and with the public;
- Review of MCPS' policies and practices for reporting and recording information about serious incidents;
- Interviews with various stakeholders, internal and external to the school system, to obtain feedback on MCPS' practices of collecting and sharing incident data; and
- Comparative research on how other states and school systems report, track, and publicly disclose information about incidents that occur in schools.

C. Organization of Report

Chapter II, Highlights of National Research on School Safety and the Use of Incident Data, describes national research on crime and violence in school, its affect on student achievement, and the use of school incident data to address school safety issues.

Chapter III, Overview of MCPS' Tracking and Reporting of Serious Incident Information, reviews the MCPS' definitions, regulations, and practices on reporting and using serious incident data. It also describes MCPS' new database for tracking serious incidents – the Incident Reporting System.

Chapter IV, Federal and State Requirements for Incident Data Reporting, summarizes the laws and regulations that require the reporting of school incident data.

Chapter V, Legal Framework for Sharing Serious Incident Data with Law Enforcement and the Public, reviews the laws and regulations governing the sharing of information about serious incidents between MCPS and law enforcement authorities. It also reviews the laws and regulations governing the public release of information from student records.

Chapter VI, Feedback on Incident Reporting and Related Issues, summarizes the themes from OLO's interviews with a wide range of individuals, including Board of Education members, MCPS administrators and staff (school-based and central office), and representatives from MCPS parents' organizations, the Police Department, the State's Attorney's Office, and the Department of Health and Human Services.

Chapter VII, Comparative Information on Incident Reporting Practices, examines the laws and practices related to how other schools in other jurisdictions collect and publicly report incident data.

Chapters VIII and IX present OLO's Findings and Recommendations.

TABLE 1-1
MCPS' DEFINITION OF "SERIOUS INCIDENT"[1]

A *serious or unusual incident* is any incident that occurs on an MCPS site, or in connection with a school-related activity, that may be classified into the following categories and may include but not be limited to:

1. Safety/Health
   a) Any incident resulting in death or serious injury of any person on an MCPS site or while conducting MCPS business
   b) Bomb threats or explosive devices on MCPS sites
   c) Fire
   d) A request for emergency medical assistance
   e) Serious property damage that results in disruption of the school day
   f) Substantial or critical malfunction of essential equipment, facilities, and/or services
   g) Serious abuse or assault (physical/sexual) of any person
   h) Serious abuse of any person that is based on sexual harassment, race, religion, or ethnic background (i.e.; hate/violence incidents)
   i) Weapons

2. Security/Discipline
   a) A request for police assistance
   b) Behavior that results in potential or actual disruption of the planned school day
   c) Portable Communication Devices[2]

Source: MCPS Regulation COB-RA, *Reporting a Serious Incident*

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[1] For simplicity, this definition excerpt eliminates the cross-references to other MCPS regulations that appear in the actual Regulation.
[2] MCPS officials report that the school system currently does not report portable communication devices as serious incidents.

D. Methodology

Office of Legislative Oversight staff members Karen Orlansky, Leslie Rubin, and Richard Romer conducted this study. OLO gathered information through general research, document reviews, and individual and group interviews. OLO worked with MCPS staff to compile process and other program data. OLO also attended meetings with MCPS and community parent organizations and groups.

To research comparative information about reporting school incidents in other places, OLO examined published reports and online analyses of school safety laws, including:

- *Select School Safety Enactments (1994-2001)*, National Conference of State Legislatures;
- *Reporting School Violence*, Office of Victim of Crime, U.S. Department of Justice (last updated December 28, 2004);
- *School Violence Incident Reporting in the United States*, Center for the Prevention of School Violence (1998);
- *School Violence and No Child Left Behind: Best Practices to Keep Kids Safe*, Reason Foundation (January 2005); and
- *Persistently Dangerous School Criteria*, Education Commission of the States (September 2004).

OLO also researched statutes and regulations pertaining to school incident tracking and reporting in all 50 states and the District of Columbia. At OLO's request, MCPS identified five other school districts that MCPS considers "peer" jurisdictions for more detailed comparative review:

- Baltimore County Public Schools, Maryland;
- Charlotte-Mecklenburg Public Schools, North Carolina;
- Fairfax County Public Schools, Virginia;
- Jefferson County Public Schools, Kentucky; and
- Palm Beach County Public Schools, Florida.

OLO examined the state laws and regulations and school system regulations and practices in these five jurisdictions through computer research and telephone interviews with school system officials.

E. Acknowledgements

OLO received a high level of cooperation from everyone involved in this study. Below are the names of the individuals with whom OLO consulted during the course of conducting this study. We greatly appreciate the information shared and the insights provided by all individuals who participated.

OLO owes a special thanks to MCPS staff in the Office of the Chief Operating Officer, the Office of School Performance, and the Department of School Safety and Security for the time taken to meet extensively with OLO staff, respond to OLO's requests for documents, and facilitate OLO's meetings with other school-based and central office staff. OLO also thanks the Montgomery County Council of Parent Teacher Associations (MCCPTA), the Montgomery County Association of Administrative and Supervisory Personnel (MCAASP), and the Montgomery County Education Association (MCEA) for arranging meetings for OLO with parents, school principals, and teachers.

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*This person spoke with OLO based on their employment with the organization listed; however, the person is no longer employed by that organization.

CHAPTER II.   Highlights of National Research on School Safety and the Use of Incident Data[1]

Educators, parents, and policy-makers agree that schools should be "safe havens" for teaching and learning, free from crime, violence, and disruptive behavior.[2] Student exposure to disruptive school behavior impedes the learning process and student achievement. One study of students' academic performance conducted by the Educational Testing Service concluded that "[t]he frequency of serious and nonserious offenses is negatively related to academic achievement in all four subject areas studied – mathematics, reading, science, and social science."[3]

This chapter highlights some of the national research on:

- The occurrence of crime and violence in schools; and
- How school incident data can be used to help improve school safety.

National Data on Crime and Violence in Schools

National research conducted under the auspices of the federal government (Departments of Education, Justice, and Health and Human Services) consistently finds that while the prevalence of crime and violence varies among communities, schools are generally very "safe places" for children, especially compared to other places they go during the day.[4]

The research also finds, however, that "any instance of crime or violence at school not only affects the individuals involved but also may disrupt the educational process and affect bystanders, the school itself, and the surrounding community."[5] And although the data show trends in student victimization decreasing over the last decade, incidents of crime and other disruptive behavior at school still do take place.

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[1] Copies of the reports cited in this chapter are available in the on-line Appendix, which can be accessed at www.montgomerycountymd.gov/csltmpl.asp?url=/content/council/olo/reports/2007.asp.

[2] Barton, P., Coley, R., and Wenglinsky, H., *Order in the Classroom: Violence, Discipline, and Student Achievement*, Educational Testing Service 5 (October 1998).

[3] Ibid. at 3. See also Verdugo, R.R., *Safe Schools Manual: A Resource on Making Schools, Communities, and Families Safe for Children*, National Education Association 5 (2005) ("[V]iolence, or the threat of violence, impedes the teaching and learning process and thus student achievement."); DeVoe, J.F., Peter, K., Noonan, M., Snyder, T.D., and Baum, K., *Indicators of School Crime and Safety: 2005*, National Center for Education Statistics, U.S. Department of Education and Bureau of Justice Statistics, U.S. Department of Justice 1 (2005) ("[A]ny instance of crime or violence at school not only affects the individuals involved but also may disrupt the educational process and affect bystanders, the school itself, and the surrounding community.").

[4] Snyder, H. and Sickmund, M., *Juvenile Offenders and Victims: 2006 National Report*, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice 29 (March 2006) ("In 2001, students were safer in school and on their way to school than they were in 1992."); *Safe Schools Manual* at 2 ("[S]chools are not any less safe than other similarly populated communities."); *Indicators of School Crime and Safety: 2005* at iv ("Students [are] more likely to be victims of serious violence or a homicide away from school.").

[5] *Indicators of School Crime and Safety: 2005* at 1.

For example, the National Center for Education Statistics found that, in 2003: five percent of students ages 12-18 reported being victimized at school during the previous six months; seven percent reported that they been "bullied" at school during the past six months, and one percent reported violent victimization.[6] And while most students and teachers reported feeling safe in their schools, "about one-fourth said they would avoid a specific place at school out of fear that someone might hurt or bother them."[7]

The Centers for Disease Control and Prevention (CDC) oversees the Youth Risk Behavior Surveillance System (YRBSS) as a means of compiling and monitoring data on health-risk behaviors among youth and young adults. The YRBSS includes national, state, and local school-based surveys of public and private school students in grades 9-12. The 2005 nationwide YRBSS survey results (which covered the reporting period October 2004-January 2006) included the following findings on incidents of crime and violence among high school students:

- 29.8% of students had their property (e.g., clothing, books, car) stolen or intentionally damaged at school at least once in the past 12 months;

- 13.6% of students were in a physical fight on school property one or more times in the past 12 months;

- 7.9% of students had been threatened or injured with a weapon (e.g., a gun, knife, or club) at school one or more times in the past 12 months;

- 6.5% of students had carried a weapon (e.g., a gun, knife, or club) on school property one or more times in the past 30 days; and

- 6% of students had not gone to school at least one day in the past 30 days because they felt they would be unsafe at school or on their way to or from school.[8]

The Use of Incident Data for Improving School Safety

As stated earlier, it is generally recognized and accepted that reducing levels of disruptive behavior at school can positively affect student performance. Reports by the Crime, Violence, and Discipline Task Force of the National Center for Education Statistics and the National Education Association identify the collection and assessment of incident data as tools for helping to address disruptive behavior and improve school safety, which in turn enhances student achievement.[9]

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[6] Ibid. at iv-vi.

[7] Crose, S., et al., *Wide Scope, Questionable Quality: Drug and Violence Prevention Efforts in American Schools*, U.S. Department of Education iv (August 2002).

[8] Eaton, D., et al., "Youth Risk Behavior Surveillance – United States, 2005," 55 *Morbidity and Mortality Weekly Report* 7-9 (June 9, 2006).

[9] Hantman, I., et al., *Safety in Numbers: Collecting and Using Crime, Violence, and Discipline Incident Data to Make a Difference in Schools*, Crime, Violence, and Discipline Task Force, National Center on Education Statistics 1 (July 2002) ("Collecting and using incident data are essential steps for creating safe schools."); *Safe Schools Manual* at 18 ("To reduce or eliminate school violence and crime, the [school]

The National Center for Education Statistics' (NCES) report, *Safety in Numbers: Collecting and using Crime, Violence, and Discipline Incident Data to Make a Difference in Schools*, advocates collecting data about all types of school incidents, from incidents requiring law enforcement involvement to minor disruptions like tardiness.[10] This report echoes the finding that "violence, and threats of violence greatly impede learning" and observes that "[m]any schools have seen academic benefits from the use of strong data collection systems as a part of violence prevention and school improvement efforts . . . ."[11]

NCES maintains that, in order for administrators to best use incident data for policy decisions, the data collection system must be both accurate and reliable. Schools should conduct training of school-based staff and create policies, including handbooks with clear definitions.[12] The recommended data to collect when an incident occurs include:

- Date of the incident;
- Type of incident;
- Location of the incident (school, part of building, bus, etc.);
- Time of day the incident occurred;
- Perpetrator information (grade, age, etc.);
- Whether the incident was reported to law enforcement;
- Reporter of the incident (teacher, administrator, student, etc.);
- Victim information (grade, age, etc.);
- Whether a weapon was involved; and
- Consequence or other action taken by the school.[13]

The collection of accurate data about the nature, extent, and scope of incidents that occur can then be used to "assess the impact of programs that have been implemented to promote school safety and to assess whether additional efforts are needed. Data provide the basis for grant applications. Incident data are also useful in assessing the costs associated with discipline problems and allocating resources appropriately."[14]

In addition to internal school system use of incident data, a number of reports on school safety explicitly advocate for the voluntary reporting of incident data to parents and the general public. Specifically, the voluntary reporting of incident data conveys a message that school administrators are proactively monitoring their performance. It also assures the public that the school district had a plan to improve student behavior.[15]

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must continually monitor certain kinds of activities. Of great importance is the collection of data or indicators that alert the [school] to potential problems.").

[10] *Safety in Numbers* at 1.
[11] Ibid. at 4.
[12] Ibid. at 10-14.
[13] Ibid. at 29-85.
[14] Ibid. at 3.
[15] Ibid. at 19.

As stated in the 2005 report *Indicators of School Crime and Safety: 2005,* prepared jointly by the U.S. Department of Education and U.S. Department of Justice:

> For parents, school staff, and policymakers to address school crime effectively, they must possess an accurate understanding of the extent and nature of the problem. However, it is difficult to gauge the scope of crime and violence in schools without collecting data, given the large amount of attention devoted to isolated incidents of extreme school violence.[16]

The concluding chapter of NCES' *Safety in Numbers* report provides the following summary of the value of collecting and sharing school incident data:

> Incident data are vital to focus school efforts to maximize the success of students. . . . To reiterate the theme of this report, collecting and using incident data are essential to creating the safe and orderly environments that students need in order to learn. Data are important to help:
>
> - Replace hunches with facts,
> - Identify the causes of problems,
> - Assess needs so that services can be targeted,
> - Determine whether goals are being accomplished,
> - Understand the impact of prevention and intervention, and
> - Answer community questions regarding the results of their investment. . . .
>
> While a comprehensive incident database makes it easier to manage resources and complete state and Federal incident reports, the most important reason to collect data is to facilitate activities that promote learning (i.e., improving school safety and focusing discipline reform efforts). Using incident data to make a difference in schools is a cyclical activity. Without accurate data, it is difficult to take appropriate steps to create climates conducive to learning."[17]

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[16] *Indicators of School Crime and Safety: 2005* at iii.
[17] *Safety in Numbers* at 87.

CHAPTER III.   Overview of MCPS' Tracking and Reporting of Serious Incident Information

The history of formally tracking serious incidents in the schools dates back to 1973, when MCPS introduced a form for reporting serious school incidents as a "pilot project."[1] In November 1976, MCPS issued the first version of a regulation titled *Reporting a Serious School Incident*. MCPS modified this regulation seven times during the past 30 years.

In 1993, MCPS started recording information about serious incidents in a centralized computer database, which served as the main repository of serious incident information. In March 2006, MCPS launched a pilot program in ten schools using new software for recording and tracking information about serious incidents. MCPS is in the process of expanding use of the new database, known as the Incident Reporting System (IRS). MCPS anticipates systemwide implementation of the IRS by December 2006.

This chapter contains an overview of MCPS' regulations, practices, and procedures governing the tracking and reporting of serious incidents. It describes MCPS' practices in recent years and MCPS' plans for use of the new IRS.[2]

Part A, Definition of a Serious Incident, describes MCPS' regulation governing reporting of serious incidents and summarizes how MCPS defines "serious incident."

Part B, Process of Reporting Serious Incidents, describes the steps that MCPS requires a principal or director to follow when a serious incident occurs. It also explains how MCPS has collected, recorded, distributed, and used information about serious incidents in recent years.

Part C, MCPS' New Incident Reporting System (IRS), describes MCPS' design and procurement of the new IRS for tracking and reporting serious incidents. The section describes MCPS' schedule for implementing the IRS systemwide, and compares the features of the new database to the one used since 1993.

PART A. DEFINITION OF A SERIOUS INCIDENT

Multiple MCPS documents (policies, regulations, exhibits, forms) contain definitions and protocols related to serious incidents. MCPS Regulation COB-RA, *Reporting a Serious Incident*, lists the situations that MCPS considers serious incidents and outlines procedures for staff to follow when such incidents occur.

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[1] September 12, 1973 Memorandum from Associate Superintendent for Administration Joseph Tarallo to All Principals. (See Appendix Document #8 for a copy of this memorandum.)
[2] All MCPS policies and regulations are available online at http://www.mcps.k12.md.us/departments/policy/.

The stated purpose of this regulation is:

> To establish procedures for reporting serious incidents to the appropriate administrative offices and to the public in order to provide for the health, safety, and security of MCPS students and employees.[3]

Appendix Document #9 is a copy of Regulation COB-RA, last revised in February, 2006.

The rest of this section provides more details about MCPS' definition of "serious incident," as found in policies, regulations, the corresponding MCPS form, and other MCPS documents.

Definition of Serious Incidents from MCPS Policies and Regulations. Regulation COB-RA, *Reporting a Serious Incident*, identifies a dozen situations that are considered "serious or unusual incidents" and sorts them into a "safety/health" or "security/discipline" category. According to Regulation COB-RA[4]:

> A *serious or unusual incident* is any incident that occurs on an MCPS site, or in connection with a school-related activity, that may be classified into the following categories and may include but not be limited to:

1. Safety/Health

   a) Any incident resulting in death or serious injury of any person on an MCPS site or while conducting MCPS business
   b) Bomb threats or explosive devices on MCPS sites
   c) Fire
   d) A request for emergency medical assistance
   e) Serious property damage that results in disruption of the school day
   f) Substantial or critical malfunction of essential equipment, facilities, and/or services
   g) Serious abuse or assault (physical/sexual) of any person
   h) Serious abuse of any person that is based on sexual harassment, race, religion, or ethnic background (i.e.; hate/violence incidents)
   i) Weapons

2. Security/Discipline

   a) A request for police assistance
   b) Behavior that results in potential or actual disruption of the planned school day
   c) Portable Communication Devices

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[3] MCPS Regulation COB-RA, *Reporting a Serious Incident*.
[4] For simplicity, this excerpt eliminates the cross-references to other MCPS regulations that appear in the actual Regulation.

Other MCPS policies, regulations, and exhibits provide additional guidance to MCPS staff concerning what situations constitute a "serious incident." In particular, Regulation COB-RA cross-references a number of other MCPS regulations as sources of more information about certain types of incidents, e.g., fire safety, possession of weapons. Other MCPS regulations (some referred to in COB-RA and some not) explicitly require a principal to file a serious incident report after the occurrence of a certain type of event, e.g., trespass, search and seizure.

Table 3-1 lists the other MCPS policies, regulations, and exhibits that address one or more types of serious incidents. The documents are divided into three groups, depending on how or whether they are referenced in Regulation COB-RA. In addition to the documents listed below, Regulation JFA-RA, *Student Rights and Responsibilities*, also addresses specific types of conduct that fall within the definition of a serious incident.

TABLE 3-1
MCPS POLICIES, REGULATIONS, AND EXHIBITS CROSS-REFERENCED WITH COB-RA,
REPORTING A SERIOUS INCIDENT **(FEBRUARY 28, 2006)**

Referenced in COB-RA in "Definitions" Section
• ACA, *Human Relations* (May 13, 2003)
• ACF-RA, *Sexual Harassment* (February 22, 2006)
• COE-RA, *Weapons* (February 10, 2006)
• COG-RA, *Portable Communication Devices* (December 22, 2005)
• EBA-RA, *Fire Safety* (June 1, 2000)
• EBH-RA, *Reporting Student Accidents* (March 8, 2005)
• ECC-RA, *Loss of MCPS Property* (June 1, 2000)
• EEA-RA, *Transportation of Students* (May 13, 1998)
• EKC-RA, *Bomb Threats/Explosive Devices* (June 1, 2000)
Referenced In COB-RA as "Related Entries," **But Not Included in "Definitions" Section**
• COB-EA, *Reporting Delinquent Acts (State Regulation)* (January 1992)
• COC-RA, *Trespassing or Willful Disturbance on MCPS Property* (June 11, 1993)
• COE-EA, *Deadly Weapons on Public School Property (State Law)* (July 1996)
• COE-EB, *Firearms* (July 1996)
• COF-RA, *Intoxicants on MCPS Property* (July 14, 2004)
Not Referenced in COB-RA, But Requiring **the Filing of a Serious Incident Report**
• COD-RA, *Prohibition of Vendors on or Near School Premises* (May 15, 1995)
• ECH-RA, *Unregistered Motor Vehicle Not Permitted on MCPS Property* (May 2, 1988)
• EIA-RA, *Insurance/Self-Insurance Management* (February 7, 2005)
• IGO-RA, *Guidelines for Drug/Alcohol Abuse Counseling* (October 1986)
• JGB-RA, *Search and Seizure* (December 22, 2005)
• JPD-RB, *Emergency Care For Pupils Subject To Anaphylactic Reaction – Resulting from An Insect Sting Or Nut Ingestion* (October 1982)

Source: Various MCPS Policies, Regulations, and Exhibits

Definitions of Serious Incidents in MCPS Forms. Regulation COB-RA, *Reporting a Serious Incident*, requires a principal to file Form 270-3, *Report of a Serious School Incident*, with the Office of School Performance (OSP) within 24 hours of verbally reporting a serious incident. (See page 16 for a description of the telephone reporting process; see Appendix Document #10 for Form 270-3.) This form requires a principal to describe the serious incident by classifying the incident into one or more categories (by checking boxes), and providing additional details of the incident in prose.

Table 3-2 lists the 20 categories and associated subcategories of incidents that appear on Form 270-3. There is no limit to the number of categories and subcategories that a principal can choose to describe an incident. A "Serious Incident Glossary" on the back of Form 270-3 provides definitions the 20 categories of serious incidents listed on the first page of the form.

TABLE 3-2
CATEGORIES AND SUBCATEGORIES UNDER HEADING "NATURE OF INCIDENT" ON FORM 270-3, *REPORT OF A SERIOUS SCHOOL INCIDENT*

Categories of Serious Incidents on Form 270-3, *Report of a Serious School Incident*	Associated Subcategories of Serious Incident on Form 270-3, *Report of a Serious School Incident*
Accident	automobile, bus, student, staff
Assault	against staff, against student
Beeper/Cell	communications device
Bomb	threat, explosion
Bullying	Specify
Burglary	actual, attempted
Bus	actual, attempted
Drugs/Alcohol	distribution, possession, use
Equipment Malfunction	Specify
Extortion	actual, attempted
Fire	accidental, arson
Hate/Violence	Specify
Robbery	actual, attempted
Sex Offense	harassment, other, specify
Theft	private property, school property
Trespassing	non-student, suspended student
Vandalism	private property, school property, graffiti
Verbal Abuse	of staff, student, other
Weapon	knife, gun, other
Other	specify

Source: MCPS Form 270-3, *Report of a Serious School Incident*

Definitions from Other MCPS Sources. In addition to Regulation COB-RA, *Reporting a Serious Incident*, and Form 270-3, other MCPS documents provide additional definitions of serious incidents. Examples include: Regulation JFA-RA, *Student Rights and Responsibilities*; Form 560-6, *Worksheet for Suspension or Health-Related Exclusion*; and Form 230-35, *Harassment or Intimidation (Bullying) Reporting Form.*[5]

In some cases, the definition of the same term among these documents differs. Table 3-3 (page 15) provides examples of the definitions for "Extortion" and "Bullying" found in different MCPS documents.

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[5] All MCPS forms are available online at http://www.mcps.k12.md.us/departments/forms/.

TABLE 3-3

EXAMPLES OF CATEGORIES OF INCIDENTS WITH MULTIPLE DEFINITIONS FROM DIFFERENT MCPS DOCUMENTS

Category of Incident from Form 270-3, *Reporting a Serious School Incident*	Definition in "Serious Incident Glossary" on Form 270-3, *Reporting a Serious School Incident*	"Suspension Offense Definitions" on Form 560-6, *Worksheet for Suspension or Health-Related Exclusion*	Definition in Regulation JFA-RA, *Student Rights and Responsibilities*	State of Maryland Definition under Safe Schools Reporting Act of 2005 from Form 230-35, *Harassment or Intimidation (Bullying) Reporting Form*
Bullying	Intentional negative actions on the part of one or more students, repeatedly and over time, that interfere with a student's ability to participate in or benefit from the school's education programs.	Intentional negative actions on the part of one or more students, repeatedly and over time, that interfere with a student's ability to participate in or benefit from the school's educational programs. [6]	[A] direct or indirect, physical or psychological intimidation which may occur repeatedly over time to create an ongoing pattern of harassment and/or abuse.	Harassment and intimidation (bullying) means conduct, including verbal conduct, that creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being, and is motivated by an actual or a perceived personal characteristic such as race, national origin, marital status, sex, sexual orientation, gender identity, religion or disability, or is threatening or seriously intimidating.
Extortion	[The] use of "mild" threats or intimidation to demand money or something of value from another.	The process of obtaining property from another, with or without that person's consent, by a wrongful use of force, fear, or threat.	[T]he use, or the express or implicit threat of the use, of violence or other criminal means to cause harm to a person, reputation, or property as a means to obtain something of value or to compel some action from someone else.	Not Applicable

Sources: Form 270-3, *Reporting a Serious School Incident*; Form 560-6 *Worksheet for Suspension or Health-Related Exclusion*; Regulation JFA-RA, *Students Rights and Responsibilities*; and Form 230-35, *Harassment or Intimidation (Bullying) Reporting Form*.

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[6] MCPS Form 560-6, *Worksheet for Suspension or Health-Related Exclusion* contains the State of Maryland's definition of "bullying" for suspension purposes from the 2005 Maryland Student Records System Manual. MCPS includes this definition of bullying in *A Student's Guide to Rights and Responsibilities 2005-2006*. As indicated in the chart above, MCPS has a different definition of "bullying" in Regulation JFA-RA, *Student Rights and Responsibilities*. Additionally, the State of Maryland defined bullying differently in the Safe Schools Reporting Act of 2005.

PART B. PROCESS OF REPORTING SERIOUS INCIDENTS

Regulation COB-RA, *Reporting a Serious Incident*, requires the "immediate" reporting of a serious incident to the principal. Table 3-4 lists the specific actions that a principal must take when notified of a serious incident. Table 3-5 summarizes the appropriate MCPS office to notify, which varies according to the location of the serious incident, e.g., a regular school, special education school.

TABLE 3-4
PRINCIPAL'S RESPONSIBILITIES WHEN RESPONDING TO A SERIOUS INCIDENT

Regulation COB-RA, *Reporting a Serious Incident*, requires a Principal to:
• Make every effort to first notify the parents or guardians of any student(s) involved before making any other referral, unless circumstances require an immediate action by police or other emergency officials to protect the health and safety of all persons involved
• Determine the facts
• Assure students and staff can provide their input and description of an incident
• Determine the appropriate course of action, including requests for non-school assistance in accordance with the comprehensive local crisis plan
• Notify the appropriate MCPS office by telephone "as soon as possible"
• File a written report on MCPS Form 270-3, *Report of a Serious School Incident*
• If the principal "perceives that a serious incident threatens the health, safety, or security of students or staff, or there is the likelihood of community concern about the incident," release information about the incident to parents, staff, and students

Source: MCPS Regulation COB-RA, *Reporting a Serious Incident*.

TABLE 3-5
OFFICE TO BE NOTIFIED WHEN SERIOUS INCIDENT OCCURS

Location of Serious Incident	Principal Must Notify:
Regular School	Office of School Performance
Special Education School	Office of School Performance
Alternative Programs	Office of Special Education and Student Services
All other locations or operations	Office of the Chief Operating Officer

Source: MCPS Regulation COB-RA, *Reporting a Serious Incident*

MCPS' Process of Tracking Serious Incidents in Recent Years. This section describes how MCPS has been tracking information about serious incidents in recent years. As indicated earlier, MCPS is introducing new software and a new database, known as the Incident Reporting System (IRS). The IRS and a schedule of systemwide implementation are described in more detail beginning on page 22.

After a principal receives notification of a serious incident, Regulation COB-RA, *Reporting a Serious Incident*, requires the principal to telephone OSP to orally report the incident. In practice, principals notify their respective Community Superintendent.[7] Some principals delegate the task of making this telephone call to an Assistant Principal or other school-based staff member.

When a call comes to OSP about a serious incident, an Administrative Services Manager (ASM) or a Director of School Performance's secretary usually takes the report. OSP employs six ASMs, each working directly for one of the six Community Superintendents, and four directors' secretaries, each working for two Directors of School Performance. MCPS trains ASMs and the secretaries to ask schools for specific information in order to properly record a serious incident.

MCPS distributes information to principals in a *Principal's Handbook*,[8] listing the type of information they need to provide to OSP when a serious incident occurs. The *Principal's Handbook* contains a list of "Guidelines for Reporting Serious Incidents to the Office of School Performance." (See Appendix Document #11 for these Guidelines.)

The Guidelines require principals to notify OSP of a serious incident "as soon as possible after the incident has occurred but no later than 24 hours." In addition, the Guidelines specify the information that principals should provide when they notify OSP of a serious incident, such as the date, time, and location of the incident, a brief description of the incident, and the actions taken by the principal. (See Table 3-6, page 18.)

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[7] MCPS has six Community Superintendents in the Office of School Performance. Each Community Superintendent oversees four or five high schools and the related middle and elementary schools that feed into those high schools.

[8] The *Principal's Handbook* is a binder distributed by MCPS containing information on various subjects relevant to operating a school. It has sections on topics such as "Dates and Calendars," "Grading, Reporting, and Testing," and "Student Enrollment, Records, and Concerns/Issues" The section on "Safety, Security, and Health" contains Regulation COB-RA, *Reporting a Serious Incident* and "Guidelines for Reporting Serious Incidents to the Office of School Performance." The *Principal's Handbook* also contains sample letters to the community on various topics, including acknowledgements of serious incidents. (See Appendix Documents #12, #13, and #14 for the sample letters acknowledging serious incidents.)

TABLE 3-6
SUMMARY OF INFORMATION PRINCIPALS ARE INSTRUCTED TO REPORT TO OSP ABOUT A SERIOUS INCIDENT

Principals Should Provide the Following Information to OSP:
Name and position of person reporting incident
Date and time of incident
Type of incident
Gender/grade and number of students, if students are involved
Location of incident – on or off school property
Brief description of incident
Consequences   ➢ Police contacted on non-emergency or 911; if so, action taken – arrest, report?   ➢ Medical – was student/staff member transported to hospital; did anyone accompany student/staff member; name of hospital?   ➢ Fire Alarm – was there an evacuation?
Disciplinary actions taken
Were parents notified?
Was MCPS security notified?
Update needed? (school to follow-up with additional information)

Source: "Guidelines for Reporting Serious Incidents to the Office of School Performance" in the *Principal's Handbook*

OSP staff take the report about a serious incident and record the following information in a computer database:

- School name
- School number
- Cluster
- Sequence number of incident
- Date of report
- Time of report
- Person reporting incident
- Person taking report
- Date of incident
- Description of incident

The description of the incident consists of one or more short paragraph(s) containing the information described in Table 3-6 above. OSP's practice has been to track information about serious incidents without including the names of students involved. This fact directly affects whether MCPS can release information about serious incidents to the public and is discussed more fully in Chapter V (page 36) and in Part C of this chapter (page 22).

As of summer 2006, the database used by OSP contains 69 categories of incidents from which to choose. (See Table 3-7 for complete list.) The person in OSP who enters the information into the database may mark as many codes in the database as apply to describe an incident.

TABLE 3-7
CATEGORIES AVAILABLE IN DATABASE FOR DESCRIBING A SERIOUS INCIDENT

Incident Categories		
Accident	Computer	Knife – Pen
Alcohol & Drugs (A&D)	Disorderly Conduct	Knife – Pocket
A&D – Liquor	Entry	Knife – Razor
A&D – Beer	Equipment	Knife – Swiss
A&D – Wine	Evacuation	Mace
A&D – Cocaine	Expulsion	Medical
A&D – Crack	Explosion	Missing Child
A&D – Heroin	Extortion	Police
A&D – LSD	False Fire Alarm	Protective Services
A&D – Marijuana	Fight	Robbery
A&D – Paraphernalia	Fire	Security
A&D – Ecstacy	Firecracker	Sexual Harassment
Arrest	Fire Department	Sexual Offense
Arson	Graffiti	Suicide
Assault	Gun	Suspicious Activity
Assault – Employee	Gun – Pellet	Suspension
Assault – Student	Gun – Like	Theft
Bomb	Gun – Toy	Threat
Bomb – Smoke	Gun – Question	Trespass
Burglary	Hate	Vandalism
Bus	Inhalant	Verbal
Communication Device	Knife	Weapons – Other
Child Abuse	Knife – Ninja	Other

Source: Sample printout of a "Report of a Serious School Incident" from the serious incident database, provided by the office of the Chief Operating Officer

After OSP records information about a serious incident in the database, MCPS' practice is to print a report entitled "Report of a Serious School Incident." An administrator in OSP – usually the Executive Assistant to the Chief School Performance Officer – reads this report, verifies that the description of the incident matches the database categories marked on the report, and approves the information before distributing it to certain administrators within MCPS.

OSP encourages schools to follow-up with additional information as it becomes available. Each time OSP updates information about a serious incident in the serious incident database, an OSP administrator approves the update.

As reviewed earlier, principals must also file a written report of a serious incident with OSP within 24 hours on Form 270-3, *Report of a Serious School Incident*. This report differs somewhat from the report of the same name generated by OSP from the serious incident database.

The process of notifying OSP about serious incidents by telephone functions largely as a "first alert" or "heads-up" to senior MCPS management staff that something "serious" occurred at an MCPS facility. Community Superintendents receive information about serious incidents that occur in their respective schools on a daily basis. They receive notification immediately about certain types of serious incidents – such as incidents involving serious injury or incidents creating a serious impact on the instructional day. Otherwise, they generally review the serious incident reports from their schools daily.

When a principal (or his/her designee) telephones OSP to report a serious incident, the incident already may be over and the principal makes the reports to document the event. For example, if there is a false fire alarm at a school, the principal is likely to report the incident to OSP after the incident concludes and students return to their classrooms.

In other circumstances, a serious incident is not "over" when a principal reports it, and a school may need immediate support or resources from within or outside of MCPS. For example, MCPS may dispatch counselors from the Department of Student Services to provide counseling for the school community or personnel from the Office of Public Information to interact with media. MCPS may also call upon resources from the community. (MCPS' interactions with other agencies on serious incidents is described more fully in later chapters.)

Distribution of Serious Incident Information Within MCPS. After OSP receives information about a serious incident, OSP staff routinely notify (either by fax or telephone) the following individuals:

- Chief of Staff to the Superintendent;
- Deputy Superintendent of Schools;
- Deputy Superintendent, Information and Organizational Systems;
- Chief Operating Officer;
- Chief School Performance Officer;
- Director of the Department of School Safety and Security;
- Director of the Public Information Office;
- Community Superintendents; and
- Executive Assistant to the Chief School Performance Officer.

If an incident involves a serious injury or creates a serious impact on the instructional day, the OSP staff member who takes the call reporting the serious incident will call all of the people listed above. For all other serious incidents, OSP faxes reports to them.

Members of the Board of Education receive copies of the reports entitled "Report of a Serious School Incident" once a day by fax. Additionally, Board of Education members receive written memoranda about some serious incidents deemed more significant by MCPS because police were called, because the incident might attract media attention, or because the incident is of a very serious nature. The decision to write a memorandum to the Board of Education about a serious incident is made by the Deputy Superintendent of Schools or the Chief Operating Officer.

Additional MCPS staff have an icon on their computer desktop that alerts them when OSP enters information about a serious incident into the database. These individuals, such as the Director of Student Services, can go into the database and read the description of the serious incident

MCPS' Current Use of Serious Incident Information. OSP compiles two summary reports of serious incident information on an annual basis:

- One summary report breaks information down by school and lists a school's name, the date of an incident, and the descriptive portion from each individual serious incident reports.

- A second summary report lists the number of serious incidents associated with each database categories on the serious incident report. OSP excludes medical incidents from this second report and can generate it for each school individually or for the system as a whole.

OSP distributes these two reports to the Chief School Performance Officer, Community Superintendents, and the Department of School Safety and Security. OSP also generates reports during the year for individuals in MCPS on an as-needed basis.

Others within MCPS may obtain year-end reports from sources other than OSP. Two of MCPS' 25 Security Team Leaders[9] interviewed by OLO indicated that their principals shared information summarizing the number of serious incidents in their schools with them.

OSP staff review on a quarterly basis how schools report serious incident information. They determine which schools are reporting serious incidents, which schools turn in required reports, and which schools have increasing or decreasing numbers of serious incidents. If necessary, a Community Superintendent or the Director of School Performance follows up with a principal to discuss any issues identified by the review.

Letters from Principals about Serious Incidents. If a principal believes that a serious incident "threatens the health, safety, or security of students or staff, or there is the likelihood of community concern about the incident," the principal has the discretion to release certain information to the community about the incident.[10] A principal generally does this by sending home a letter with students at the end of the school day. Principals often seek guidance from their Community Superintendent or the Director of the Public Information Office when deciding whether to send home a letter about a serious incident.

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[9] Each high school has a Security Team Leader. Among other responsibilities, these individuals:
- Investigate all criminal incidents on school property,
- Advise the principal on security-related matters,
- Assist the administration with staff and student security awareness programs, and
- Supervise other security personnel at his or her school.

[10] See Regulation COB-RA, *Reporting a Serious Incident.*

The *Principal's Handbook* contains three sample letters addressing serious incidents:

- Acknowledgement of Incident – No Interruption to the School Day
- Acknowledgement of Incident – Interruption of School Day; Students Moved to Alternative Location, but will Return to School the Next Day
- Acknowledgement of Incident – Interruption of School Day; Student Moved to Alternative Location; School Building Closed

The Director of MCPS' Public Information Office reviews and, if necessary, edits letters prior to principals sending them home. (See Appendix Documents #12, #13, and #14 for these sample letters.)

Except for letters sent home by individual principals about specific incidents, MCPS' practices do not currently include the routine sharing of serious incident data with the community. In some situations, MCPS informs a PTA President of a serious incident, but does not send a letter home to the school community. Members of the public can file an application under Maryland's Public Information Act with MCPS' Public Information Office to obtain information about serious incidents from the old serious incident database. The Public Information Office will then release copies of the reports entitled "Report of a Serious School Incident" generated by OSP from the database. The Public Information Office keeps copies of these reports for three years – the current school year and two previous school years.

MCPS does not consider the reports filed by principals on Form 270-3, *Report of a Serious School Incident*, public documents and does not release them to the public. Because principals file these reports up to 24 hours after a serious incident occurs, these reports may contain more detailed information about a serious incident, the school's response to it, and any subsequent investigation, than the information contained in the reports generated by OSP from the serious incident database.

PART C. MCPS' NEW INCIDENT REPORTING SYSTEM

In 2004, MCPS started the process of replacing the computer database that it has used to record serious incidents since 1993. This process will alter the way MCPS gathers, records, and releases information about serious incidents in the future. This section describes:

- The internal MCPS process of design and procurement of the new Incident Reporting System (IRS);
- MCPS' pilot project and phased in expansion of the IRS to all schools; and
- The information that will be captured in the new database compared to the existing system.

1. MCPS' Process of Design and Procurement of the New Database

In 2004, the Superintendent tasked the Chief Operating Officer to work with the Office of Information and Organizational Systems (OIOS) and OSP to design and implement a new serious incident tracking and reporting system. A Project Team of individuals from the following MCPS departments and offices assisted in developing the new system:

- Office of the Deputy Superintendent of Schools;
- Office of Information and Organizational Systems;
- Office of the Chief Operating Officer;
- Office of School Performance;
- Department of Reporting and Regulatory Accountability;
- Department of School Safety and Security;
- Appeals/Transfer Team; and
- Department of Transportation.

In October 2005, the Superintendent recommended and the Board of Education approved a non-competitive contract award for $115,000 to GBA Systems for their School Safety Software Program.[11] According to MCPS staff, the School Safety Software Program was justified as a non-competitive award because it was the only available software application with the necessary features and functionality for MCPS. Additionally, GBA Systems agreed to develop a web-based version of the program for MCPS.

2. Pilot Project and Phased-In Expansion of the New Database

Spring 2006 – Pilot Project in 10 MCPS Schools. In March 2006, the following 10 MCPS schools began using the IRS to record information about serious incidents:

- John F. Kennedy High School;
- Col. Zadok Magruder High School;
- Sherwood High School;
- Quince Orchard High School;
- Roberto Clemente Middle School;
- Eastern Middle School;
- Francis Scott Key Middle School;
- Montgomery Village Middle School;
- South Lake Elementary School; and
- Weller Road Elementary School.

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[11] MCPS refers to the School Safety Software Program in internal memoranda as the "Incident Reporting System" or IRS. This report refers to the database as the IRS.

Between March 2006 and the end of the 2005-2006 school year, when a serious incident occurred at one of the pilot schools, the school still notified OSP by telephone and someone at OSP entered information into the old serious incident database. At the same time, an individual at the school where the incident occurred entered information about the serious incident into the IRS. During this phase of the pilot, OSP did not use the IRS to record serious incidents.

The Project Team worked with these 10 schools to determine how well the IRS software works for MCPS. The Project Team examined changes suggested by database users and solicited feedback on how to best train staff in the future to use the database.

2006-2007 School Year: Phased-in Expansion to all MCPS schools. In June 2006, GBA Systems finished designing the web-based version of the IRS for MCPS. In September 2006, OSP plans to begin using the IRS to record all serious incidents and to stop using the serious incident database that has been in place since 1993.

MCPS' plans are for 25 schools – one from each cluster – to use the IRS at the beginning of the 2006-2007 school year in September 2006. During the Fall of 2006, MCPS' Technology Consulting Team will train staff from all remaining MCPS schools on how to use the database. Then, one-third of the remaining schools will begin using the IRS in each of the following months – October, November, and December 2006.

With OSP using the IRS starting in September, school personnel from all schools will call OSP to report serious incidents and someone at OSP will enter information into the IRS. Rather than repeatedly calling OSP with updates, however, the schools will be able to update information directly into the IRS as it becomes available.

In addition, school-based personnel will be able to enter all disciplinary incidents into the IRS if they choose – not just those incidents reported as serious incidents – and the IRS will distinguish between the two. As MCPS expands the functionality of the IRS, MCPS intends for the IRS to be the primary reporting database for all discipline related reports, including suspension reporting.

3. Capabilities of the New IRS Database Compared to the Previous System

Table 3-8 (page 26) compares the information that MCPS can record for each serious incident in the IRS compared to the previous database used since 1993.

For example, the two systems both record:

- The name of a school where an incident occurred;
- The date and time of the incident; and
- A description of the incident.

The IRS, however, tracks significantly more information about serious incidents than the old serious incident database, including:

- Name(s) and identification number(s) of student involved in serious incidents;
- Disabilities of students involved in serious incidents;
- The geographic location of a serious incident on an MCPS site;
- Injuries inflicted during serious incidents;
- Gang involvement in serious incidents; and
- Value of damage or loss to property caused during a serious incident.

Significance of Tracking Serious Incident Information by Student Name and Identification Number. As indicated above, the IRS tracks serious incidents by names and student identification numbers. By tracking information by student name in the IRS, serious incident records become part of a student's individual record and become subject to federal and state privacy laws to which the information in the old serious incident database is not. These laws govern whether and how MCPS can release information from student records to the public without parental permission.

Going forward, federal and state privacy laws will limit MCPS only to releasing information from the IRS that does not identify individual students. Federal and state privacy laws pertaining to student records are discussed more fully in Chapter V.

Table 3-9 (page 27) lists the specific information that the IRS can record about individuals involved in serious incidents.

TABLE 3-8
COMPARISON OF INFORMATION RECORDED ABOUT SERIOUS INCIDENTS IN OLD
SERIOUS INCIDENT DATABASE AND IRS

Old Serious Incident Database		IRS
Information Recorded in Individual Data Fields	**Recorded in Written Description of Serious Incident**	**Information Recorded in Individual Data Fields**
		Incident Number
	Sex, Grade of Students Involved; Disciplinary Actions Taken	Information about Individual(s) Initiating Serious Incident*
	Sex, Grade of Students Involved; Disciplinary Actions Taken	Information about Victim(s)*
Date and Time of Report		Date Entered Into Database
Incident Date		Incident Date
Report Number		Report Number
School Name		School Name
Reported By		Reported By
Person in OSP Taking Report		
	Time Incident Occurred	Time Incident Occurred
	Location of Incident	Location of Incident
		Original Incident Number
		Number of Individuals Involved
	Written Description of Incident	Synopsis of Incident
Incident Categories		Primary Offense
		Secondary Offense
		Geographic Location
		Damage or Loss Value
		Recovered Value
	Reported to Law Enforcement?	Reported to Law Enforcement?
		Police Activity Number
	Was security notified?	Investigator
		Injury Description
		Treatment Description
	Responding Agencies	Responding Agencies
		Gangs Involved

Source: School Safety Software v.6.1.8 User Manual June 2004; Sample Report of a Serious School Incident
* See Table 3-9 (page 27) for additional information recorded in IRS about individuals involved in serious incidents.

TABLE 3-9
INFORMATION RECORDED IN IRS ABOUT INDIVIDUALS INVOLVED IN SERIOUS INCIDENTS

Individual(s) Initiating Serious Incident	Victim(s) Involved In Serious Incidents
Relation to School	Relation to School
School Identification Number	School Identification Number
First Name	First Name
Last Name	Last Name
Middle Initial	Middle Initial
Race	Race
Sex	Sex
Age	Age
Grade	Grade
Exceptionalities (disabilities)	Exceptionalities (disabilities)
Statement from Individual(s)	Statement from Individual(s)
Offense	Damage or Loss Value
Arrest?	Recovered Value
Charge Description	
Severity of Charge (Misdemeanor Or Felony)	
Automatic School Code Violations	
Possessions	
Possession Detail	
Code of Conduct (Type Of School Rule Violated)	
Referring Staff	
Consequences	
Number of Days	
Administrator Initiating Discipline	
Appeal Type	
Appeal Status	

Source: School Safety Software v.6.1.8 User Manual June 2004

Incident Categories Tracked by the IRS. Similar to the previous serious incident database, MCPS will be able to use multiple terms to classify a serious incident. The IRS allows a user to classify any serious incident with one "primary offense" category and multiple "secondary offense" categories. MCPS is using a list of 102 different terms to categorize serious incidents in the IRS compared to 69 terms in the old database. MCPS included in the 102 terms the 35 state-defined categories for which a student may be suspended and expelled. Table 3-10 (page 28) lists the key words MCPS can use to describe a serious incident in the IRS.

TABLE 3-10
LIST OF KEY WORDS USED TO DESCRIBE BEHAVIOR/ACTIONS REPORTED IN SERIOUS INCIDENTS IN IRS

Terms Used to Categorized Serious Incidents in the IRS				
Accident+	Communication Device+	Fire/Arson+*	Knife+	Shelter in Place
Alcohol+*	Computer Abuse+	Fire Department+	Lighter	Suicide+
Ambulance	Crisis Center	Firecracker+	Medical+	Suicide Threat
Ammunition	Crisis Team	Gang	Missing Child+	Suspension+
Arrest+	Cutting class*	Gang-related	Multiple Schools	Suspicious Activity+
Assault (not employee or student) +	Death	Graffiti – Hate/Violence	News Media	Tardiness*
Assault (Physical Attack) – Employee+*	Disrespect*	Graffiti (unspecified)+	Other+	Theft*+
Assault (Physical Attack) – Student+*	Intoxicants, distribution of	Gun – Like+	Plagiarism	Threat, Verbal or Physical, Staff+*
Bomb – Explosive Device+	Intoxicants, possession or use	Gun – Questionable+	Police+	Threat, Verbal or Physical, Student+*
Bomb – Smoke+	Disturbance, Inciting or Participating*	Gun – Toy+	Portable Communication Device*	Tobacco*
Bomb Threat	Drugs – Inhalant+*	Gun (Firearm) – Real & Verified+*	Protective Services+	Trespassing+*
Bullying*	Drugs – Other+*	Gun (Other) – BB/Pellet+*	Refusal to Obey School Policies*	Truancy*
Burglary+	Drugs – Paraphernalia	Harassment*	Robbery+	Unauthorized Sale or Distribution*
Bus+	Educational Facilities Officer (EFO)	Hate+	School Security+	Vandalism/Destruction of Property+*
Cheating/Academic Dishonesty*	Equipment+	Hazing	Search – Physical Search	Verbal Abuse+
Chemical Incident	Evacuation+	Hospital	Search – Self Search	Violent Physical Attack on a Staff Member
Chemical Spray	Explosion+	Illegal Entry	Serious Bodily Injury*	Weapons Used to Cause Bodily Harm
Child Abuse+	Explosives*	Inappropriate Behavior	Sexual Assault*	Weapon, Other+*
Classroom Disruption*	Extortion+*	Inappropriate Behavior of a Sexual Nature	Sexual Behavior (Consensual)*	
Code Blue	False Fire Alarm/False Bomb Threat+*	Inappropriate Touching	Sexual Harassment+*	
Code Red	Fight+*	Insubordination*	Sexual Offense+	

Source: List of "Key Words Used to Describe Behavior/Actions Reported in Serious Incidents" provided by MCPS' Office of School Performance
+ Indicates Term Used In Old Serious Incident Database
* Indicates State Suspension Category

Information generated from the IRS. MCPS can generate reports and graphs from the information collected in the IRS about serious incidents. MCPS can create graphs analyzing information by:

- Grade
- Age
- Sex
- Race
- Exceptionalities
- School

- Individuals involved by school
- Incident trends
- Trends of individuals
- Offense
- Year-to-date comparisons.

In addition, the IRS can produce reports analyzing information in numerous ways. Table 3-11 lists the types of reports that MCPS can generate from the IRS.

According to OIOS, MCPS' switch to the IRS will enhance significantly MCPS' capacity to analyze data and better understand patterns of serious incidents across the system, i.e., when and where they occur. MCPS will also be able to better track how it uses its resources to respond to serious incidents.

TABLE 3-11
TYPES OF REPORTS GENERATED BY IRS

Report Title	Report Lists All Incidents:
All Incidents Report	In a selected date range.
Code of Conduct Report	Sorted by the code of conduct violated.
Consequences Report	Sorted by consequence to individuals involved.
Damage or Loss Value Report	With recorded damage or loss of value to property.
Detail Report	In a selected date range.
Federal Agency Report	That MCPS must report to federal agencies.
Gang Report	Associated with gangs.
Identification Number/Name Report	Associated with students.
Local Agency Report	That MCPS must report to local agencies.
Location Report	Sorted by location of the incident.
Perpetrator Report	Lists all individuals who initiated serious incidents, sorted by school and last name.
Reported By Report	Sorted by person reporting the incident.
Responding Agency Report	Sorted by the responding agency (e.g., police, fire department).
State Agency Report	That MCPS must report to state agencies.
Time Incident Occurred Report	Sorted by the time the incident occurred.
End of Year Reports	Creates final reports for a school year.

Source: School Safety Software v.6.1.8 User Manual June 2004

CHAPTER IV.   Federal and State Requirements for Incident Data Reporting

This chapter reviews the federal and state laws that require the reporting of information about incidents that occur on school property. Chapter V (page 36) describes the legal framework governing MCPS' sharing of incident information with law enforcement authorities and the public release of information from student records.

Part A, Federal Laws, describes the federal laws requiring MCPS to report information about incidents that occur on school sites to the federal or state governments.

Part B, Maryland State Laws, describes the state laws that require school districts to report suspension and expulsion data and information about incidents of harassment or intimidation to the State Department of Education.

PART A. FEDERAL LAWS

Four federal laws require schools and school systems to collect and/or report information about the suspension and/or expulsion of students:

- The Safe and Drug-Free Schools and Communities Act;
- The Gun-Free Schools Act;
- The No Child Left Behind Act of 2001 – Unsafe School Choice Option; and
- The Individuals with Disabilities Education Act.[1]

MCPS transmits the information required under these laws to the State Department of Education, which in turn reports it to the U.S. Department of Education.[2]

Safe and Drug-Free Schools and Communities Act. One goal of the Safe and Drug-Free Schools and Communities Act is to provide federal funds to states to "support programs that prevent violence in and around schools."[3] States must collect the suspension and expulsion data on a school-by-school basis and report the data to the public.[4] (See Appendix Documents #15, #16, and #17 for the relevant portions of this law.)

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[1] While the Safe and Drug-Free Schools and Communities Act and the Gun-Free Schools Act predate the No Child Left Behind Act of 2001, they were reauthorized by and now are encompassed within the No Child Left Behind Act.

[2] See, e.g., 20 U.S.C. § 7116(b)(1).

[3] 20 U.S.C. § 7102.

[4] 20 U.S.C. § 7112(c)(3)(D).

The law requires that states develop a "uniform management information and reporting system"[5] to:

- Collect information on "the frequency, seriousness, and incidence of violence and drug-related offenses resulting in suspensions and expulsions in elementary schools and secondary schools;"[6] and
- Report to the Secretary of Education on the outcome of programs pursued under the Act.[7]

Gun-Free Schools Act. To receive federal funds under the Gun-Free Schools Act, a state must pass a law requiring the expulsion of students who bring firearms to school or possess them at school.[8] Under the Act, local school systems must:

- Report to the state circumstances surrounding any expulsion under state law;[9] and
- Have a policy requiring students who bring guns to school or possess guns at school be referred to law enforcement.[10]

(See Appendix Document #18 for the relevant portions of this law.) Maryland, in turn, must report the relevant data on expulsions to the U.S. Department of Education.[11] Maryland law complies with the Act and the Maryland State Board of Education adopted a regulation in 2004 to implement the State law.[12] (See Appendix Documents #19 and #20 for the relevant Maryland law and regulation.)

No Child Left Behind Act of 2001 – Unsafe School Choice Option. Under the No Child Left Behind Act of 2001, states must allow students who attend a "persistently dangerous" school to transfer to a "safe" school in the same local school system.[13] The Act allows a state to define which schools in that state are persistently dangerous. (See Appendix Documents #21 for the relevant federal law.)

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[5] 20 U.S.C. § 7112(c)(3).

[6] Ibid.

[7] 20 U.S.C. § 7116(a). The Safe and Drug-Free Schools and Communities Act also requires the National Center for Education Statistics to collect *incident reports* from elementary and secondary schools "to determine the incidence and prevalence of illegal drug use and violence in the schools. 20 U.S.C. § 7132(b). According to the U.S. Department of Education's Office of Safe and Drug-Free Schools, however, the Federal Government currently does not collect this data because of the perceived burden on the states and because the current variation among incident reporting systems in different school systems would render the data unusable. Interview with Deborah Rudy, U.S. Department of Education Office of Safe and Drug-Free Schools (March 10, 2006).

[8] 20 U.S.C. § 7151(b)(1).

[9] 20 U.S.C. § 7151(d).

[10] Ibid. § 7151(h).

[11] Ibid. § 7151(e).

[12] Annotated Code of Maryland, Education, § 7-305(e); Code of Maryland Regulations title 13A, § 08.01.12-1.

[13] 20 U.S.C. § 7912(a).

The Code of Maryland Regulations defines persistently dangerous schools based on school suspension and expulsion data.[14] Specifically, in Maryland, a school is considered persistently dangerous if, for three years in a row, 2.5% or more of enrolled students are suspended for more than 10 days or expelled for one of the following offenses:

- Arson or fire;
- Drugs;
- Explosives;
- Firearms;
- Other guns;
- Other weapons;
- Physical attack on a student;
- Physical attack on a school system employee or other adult; and
- Sexual assault.[15]

(See Appendix Document #22 for the relevant state regulation.) While the No Child Left Behind Act does not require Maryland to report suspension or expulsion data directly to the Federal Government, it does mandate that the State certify its compliance with the requirements of the Act.[16]

Individuals with Disabilities Education Act. The Individuals with Disabilities Education Act requires states to report the number of long-term suspensions or expulsions among children with disabilities to the U.S. Department of Education and to the public.[17] The Act also requires states to 1) report data on suspensions for children with disabilities by race, ethnicity, limited English proficiency status, gender, and disability category,[18] and 2) examine whether local school systems suspend or expel disproportionate numbers of disabled children by race or ethnicity.[19] (See Appendix Document #23 for the relevant portions of this law.)

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[14] Code of Maryland Regulations title 13A, § 08.01.18(B)(4). The U.S. Department of Education recommends that states define persistently dangerous schools based on incident data, rather than suspension and/or expulsion data. *Unsafe School Choice Option: Non-Regulatory Guidance*, U.S. Department of Education (May 2004).
[15] Code of Maryland Regulations title 13A, § 08.01.18(B)(4).
[16] 20 U.S.C. § 7912(b).
[17] 20 U.S.C. § 1418(a)(1)(A)(v)(III).
[18] Ibid. § 1418(a)(1)(D).
[19] Ibid. § 1418(d)(1)(C).

PART B. MARYLAND STATE LAWS

State law requires local schools systems to report suspension and expulsion data, and data about incidents of harassment or intimidation (bullying) to the Maryland State Department of Education (MSDE).[20] The MSDE Student Records System Manual sets forth how schools must collect and report suspension and expulsion data. The Safe Schools Reporting Act of 2005 details how schools must collect and report information about incidents of harassment or intimidation against students.[21]

Reporting Suspension and Expulsion Data. The 2006 Maryland Student Records System Manual lists 41 "offenses" or reasons for "exclusion" to classify a student's behavior leading to suspension, expulsion, or exclusion from school.[22] Local school systems report suspension and expulsion data annually to the MSDE by September 1st. (See Appendix Document #24 for a copy of this Manual.)

The Manual divides the 41 offenses or reasons for exclusion from school into the following categories: 1) eight "major offense" categories, 2) Individuals with Disabilities Education Act (IDEA) offenses,[23] and 3) health-related exclusions. Table 4-1 (page 34) lists the 41 offense or exclusion bases by category.

The Manual also lists the following eleven "disposition" levels that schools must use to "best describe[] the action taken in response to the offense."[24]

- Out-of School Suspension;
- Out-of School Suspension - educational services provided;
- Out-of School Suspension - conduct determined to be manifestation of disability;
- Out-of School Suspension – educational services offered and rejected by student;
- 45 School Days Unilateral Removal;
- Placement Determined by Hearing Officer;
- Expulsion – educational services provided;
- Expulsion – educational services rejected (withdrawn);
- Expulsion – no educational services provided (withdrawn);
- Returning to School after Health Exclusion; and
- In-school Suspension.

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[20] The discussion in this section is limited to the information MCPS must report to the State related to disciplinary incidents. School systems also must report information to the State on topics such as student attendance, enrollment, and performance. See 2006 Maryland Student Records System Manual. The Maryland Student Records System Manual identifies the minimum information that school systems must collect about students. Code of Maryland Regulations title 13A, § 08.02.09. The Manual is incorporated by reference into Maryland regulation and has the force of law. Annotated Code of Maryland, Education, § 2-205(c)(1); Code of Maryland Regulations title 13A, § 08.02.01.

[21] Annotated Code of Maryland, Education, § 7-424.

[22] Two of the 41 categories are exclusions for "immunizations" and "personal health" and three are limited to circumstances involving disabled students when weapons or drugs are involved.

[23] The Individuals with Disabilities Education Act defines drug and firearm offenses differently than the MSDE. Schools use IDEA offense codes for drug or firearms incidents involving students with disabilities.

[24] 2006 Maryland Student Records System Manual at E-7.

TABLE 4-1
BASES FOR SUSPENSION, EXPULSION, OR EXCLUSION IN MARYLAND PUBLIC SCHOOLS

SUSPENSION AND EXPULSION OFFENSES BY MAJOR OFFENSE CATEGORY	
Attendance	**Arson/Fire/Explosives**
• Class cutting • Tardiness • Truancy	• Arson/Fire • False Alarm/Bomb Threat • Explosives
Weapons	**Sex Offenses**
• Firearms • Other Guns • Other Weapons	• Sexual Assault • Sexual Harassment • Sexual Activity
Dangerous Substances	**Disrespect/Insubordination**
• Alcohol • Inhalants • Drugs • Tobacco	• Disrespect • Insubordination • Harassment • Classroom Disruption • Inciting/Participating in Disturbance
Attack/Threats/Fighting	**Other**
• Physical Attack – Teacher/Staff • Physical Attack – Student • Verbal or Physical Threat to Teacher, Staff, or Others • Verbal or Physical Threat to Student • Fighting • Extortion • Bullying • Serious Bodily Injury	• Academic Dishonesty/Cheating • Portable Communication Devices • Theft • Trespassing • Unauthorized Sale or Distribution • Vandalism/Destruction of Property • Refusal to Obey School Policies
IDEA OFFENSES	**HEALTH-RELATED EXCLUSIONS**
• Sells or Solicits Sale of Controlled Substance • Possesses or Uses Illegal Drugs • Bringing or Possessing a Firearm Onto School Property or To a School-Sponsored Event	• Immunizations • Personal Health

Source: 2006 Maryland Student Records System Manual

MCPS annually reports these suspension and expulsion data to the Maryland State Department of Education. MSDE publishes the information in two annual reports:

- *Maryland Public School Suspensions by School and Major Offense Category*; and
- *Suspensions, Expulsions, and Health Related Exclusions: Maryland Public Schools.*

Safe Schools Reporting Act of 2005. In 2005, the Maryland General Assembly enacted the Safe Schools Reporting Act of 2005, requiring local school systems to "report incidents of harassment or intimidation against students attending a public school . . . ."[25] This is the only state law that requires school systems to report *incidents* directly to the State. The laws detailed above require school systems to report to the State *disciplinary responses* to incidents. (See Appendix Document #25 for a copy of this law.)

Under this Act, local school systems must use MSDE-created forms to provide a system for students, their parent or guardian, or a "close adult relative" to report and for the school system to investigate incidents of harassment or intimidation (bullying).[26] Local School systems must provide an annual report of incidents to the MSDE which, in turn, must provide an annual report to the Maryland General Assembly.[27] (See Appendix Document #26 for a copy of the 2006 MSDE report.)

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[25] Annotated Code of Maryland, Education, § 7-424(b)(1). "Harassment or intimidation" means:
    [C]onduct, including verbal conduct, that:
        (1) Creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is:
            (i) Motivated by an actual or a perceived personal characteristic such as race, national origin, marital status, sex, sexual orientation, gender identity, religion, or disability; or
            (ii) Threatening or seriously intimidating; and
        (2) Occurs on school property, at a school activity or event, or on a school bus.
Ibid. § 7-424(a).
[26] Ibid. § 7-424(b)(2), (c)(1).
[27] Ibid. § 7-424(d)-(e).

CHAPTER V.   Legal Framework for Sharing Serious Incident Data with Law Enforcement and the Public

This chapter reviews the laws and regulations that govern the sharing of serious incident information between MCPS and law enforcement authorities, and reviews the laws and regulations governing the public release of information from student records.[1]

Part A, Sharing of Serious Incident Information with Law Enforcement, reviews the State laws and regulation and MCPS regulations that guide the sharing of information about serious incidents among MCPS and the:

- Montgomery County Police Department (MCPD);
- Montgomery County Fire and Rescue Service (MCFRS); and
- Montgomery County State's Attorney's Office.

This section also discusses the status of a Memorandum of Understanding currently being negotiated among MCPS, MCPD, and the State's Attorney's Office.

Part B, Privacy Laws, describes the legal framework (federal and State laws and regulations, MCPS policies and regulations) that governs MCPS' ability to release information from student records to the general public without parental permission.

PART A. SHARING OF SERIOUS INCIDENT INFORMATION WITH LAW ENFORCEMENT

1. Montgomery County Police Department

A number of Maryland laws and regulations and MCPS regulations address the sharing of information between MCPS and the Montgomery County Police Department (MCPD). These laws and regulations obligate both MCPS and MCPD to share information with each other when certain incidents occur. In addition, MCPS, MCPD, and the State's Attorney's Office are in the process of drafting a Memorandum of Understanding (MOU) among the organizations establishing a written protocol for the sharing of information.

Table 5-1 (page 37) describes the state law and regulations that require MCPS and MCPD to share information and cooperate during criminal investigations. Table 5-2 (page 38) lists the MCPS regulations that require MCPS to call the police and describes the circumstances that require such a call.

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[1] See Chapter VI for a brief description of MCPS' practices related to the sharing certain types of serious incident information with the Department of Health and Human Services.

TABLE 5-1
MARYLAND LAWS AND REGULATIONS GOVERNING INTERACTION
BETWEEN MCPS AND MCPD FOR CRIMINAL OR DELINQUENT ACTS

SOURCE	TITLE	ACTION REQUIRED
Annotated Code of Maryland, Education Article, § 7-303 (See Appendix Document #27 for a copy of this law.)	Arrest for Reportable Offense	• Law enforcement must notify the Superintendent of an arrest and charges if a student is arrested for a reportable offense (defined in the law) or an offense "that is related to the student's membership in a criminal gang." • The State's Attorney's Office must notify the Superintendent of the disposition of the reportable offense. • The information is confidential and "may not be made part of the student's permanent educational record."
Code of Maryland Regulations Title 13A, § 08.01.15 (See Appendix Document #28 for a copy of this regulation.)	Reporting Delinquent Acts	• School officials must notify law enforcement agencies of all "delinquent acts" that school officials learn about involving students attending a particular school, whether the acts occur on or away from the school premises. • "Delinquent acts are offenses committed by a person who is under 18 years old which would be crimes if committed by an adult." • The regulation exempts from reporting "conduct which has been traditionally treated as a matter of discipline to be handled administratively by a particular school."
Code of Maryland Regulations Title 13A, § 08.01.12	Arrests on School Premises	• Police should make arrests during nonschool hours and away from a school site, "when possible and appropriate." • School officials may not allow police officials to question a student under arrest on school grounds.
Code of Maryland Regulations Title 13A, § 08.01.13	Questioning on School Premises	• Police officials can question students on school grounds only 1) in connection with a crime committed on the premises, or 2) if delaying the questioning would compromise an investigation or endanger the lives or safety of students or others. • If school officials do permit questioning of students on school premises, a school official should be present.

Source: Annotated Code of Maryland; Code of Maryland Regulations

TABLE 5-2
MCPS REGULATIONS REQUIRING REFERRAL TO POLICE

REGULATION	REQUIRED REPORTING TO POLICE
Regulation COC-RA, *Trespassing or Willful Disturbance on MCPS Property* (June 11, 1993)	• Principals must notify the police of any person causing a disturbance or not having lawful business on MCPS property who refuses to comply with the law after being asked.
Regulation COD-RA, *Prohibition of Vendors on or Near School Premises* (May 15, 1995)	• Principals must notify police whenever someone engages in sales on or near school grounds in violation of the Montgomery County Code and refuses to leave the area after being asked.
Regulation COE-RA, *Weapons* (February 10, 2006)	• Principals must notify the police of any individual possessing or suspected of possessing a firearm on an MCPS site.
Regulation COF-RA, *Intoxicants on MCPS Property* (July 14, 2004)	• Principals must notify the police of all incidents involving students on MCPS property where there is reasonable cause to believe there is a violation of the law involving illegal drugs or alcohol. • Principals must notify the police of all incidents involving employees or others where there is a violation of the law involving drugs.
Regulation DIE-RA, *MCPS Staff Vehicles* (January 6, 2005)	• A driver of an MCPS vehicle involved in an accident must contact the police immediately.
Regulation ECC-RA, *Loss of MCPS Property* (June 1, 2000)	• The appropriate administrator must notify police whenever equipment is lost or stolen.
Regulation ECH-RA, *Unregistered Motor Vehicles Not Permitted on MCPS Property* (May 2, 1988)	• Principals must notify police whenever someone brings an unregistered motor vehicle (e.g., a minibike or go-cart) on MCPS property and refuses to comply with the law after being asked.
Regulation EEA-RA, *Transportation of Students* (May 13, 1998)	• A bus operator must notify police in the event of a bus accident involving students. • All MCPS employees, including bus operators, must notify the Department of Health and Human Services Child Welfare Services or the police if they suspect a child is being abused or neglected.
Regulation EKC-RA, *Bomb Threats/Explosive Devices* (June 1, 2000)	• Principals or other administrators must notify police immediately if an MCPS site receives a bomb threat or if someone discovers a suspected explosive device.
Regulation IGO-RA, *Guidelines for Drug/Alcohol Abuse Counseling* (October 1986)	• Principals must report to the police all illegal incidents of possession, use, or distribution of illegal drugs or alcohol on school grounds.
Regulation JFA-RA, *Student Rights and Responsibilities* (January 25, 2006)	• Principals must notify police and recommend expulsion for the following student infractions: ➢ bomb/facsimile possession, bomb threats, intent to or distribution of intoxicants, possession of firearms, violent physical attack on a student or staff member, and weapons used to cause bodily harm/injury • Principals must notify police of the following student infractions: ➢ destruction of public property (vandalism), firesetting, possession or use of intoxicants, sexual offenses, hate/violence, and gang-related incidents
Regulation JGB-RA, *Search and Seizure* (December 22, 2005)	• School personnel must seek police assistance in conducting any search when the suspected item is a firearm.
Regulation JHC-RA, *Child Abuse and Neglect* (January 23, 1989)	• All MCPS employees must notify the Department of Health and Human Services Child Welfare Services or the police if they suspect a child is being abused or neglected.

Source: Various MCPS Regulations

2. Montgomery County Fire and Rescue Service

The most frequent and ongoing interactions between Montgomery County Fire and Rescue Service (MCFRS) and MCPS staff concerns the investigations of fires that occur on school property. Montgomery County fire and explosive investigators assigned to MCFRS' Fire and Explosive Investigations Unit conduct these investigations and pursuant to State law, have the authority to arrest individuals when they have probable cause to believe a crime involving fire, destructive devices, or other related crimes has been committed or attempted.[2]

MCFRS representatives emphasize how essential it is that MCPS report every fire incident that occurs on an MCPS site. MCFRS investigators work primarily with staff from MCPS' Department of School Safety and Security to investigate fires or explosive devices on MCPS sites. Staff from MCFRS and MCPS jointly report that the two agencies have a good working relationship.

3. Montgomery County State's Attorney's Office

The Montgomery County State's Attorney's Office investigates and prosecutes criminal defendants under State law. The Juvenile Court Prosecution Unit prosecutes juveniles charged with crimes in Montgomery County.

In certain situations, a Juvenile Court may seek to keep a juvenile in custody through the process of a detention hearing. When the Court holds a detention hearing for a juvenile based on an incident at an MCPS site, the Juvenile Court Prosecution Unit represents the interests of the State and may seek information from MCPS about the incident for use at the juvenile's detention hearing. The State's Attorney's Office's Juvenile Unit is involved in approximately 200 detention hearings a year, of which only a relatively small number involve incidents that occur on MCPS sites.

4. Status of Memorandum of Understanding Between MCPS and Law Enforcement About Sharing Information and Conducting Investigations

Representatives from MCPS, the Montgomery County Police Department (MCPD), and the State's Attorney's Office have been working for more than a year on crafting a Memorandum of Understanding (MOU) among the agencies regarding the sharing of information about students involved in criminal incidents and the investigation of suspected criminal incidents that occur on school sites. As indicated above, Maryland law and regulation require MCPS and MCPD to share information about "delinquent acts" that occur in schools[3] and about students arrested for reportable offenses.

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[2] Annotated Code of Maryland, Criminal Procedure Article, § 2-208.1(b) (granting same authority as State Fire Marshal to Montgomery County fire and explosive investigator); Annotated Code of Maryland, Criminal Procedure Article, § 2-208 (establishing authority of the State Fire Marshal and assistants). (See Appendix Documents #29 and #30 for these laws.)

[3] The regulation exempts schools from reporting "conduct which has been traditionally treated as a matter of discipline to be handled administratively by a particular school." Code of Maryland Regulations Title 13A, § 08.01.15(B).

A theme heard during OLO's interviews with representatives from MCPS, MCPD, and the State's Attorney's Office was a perception that the sharing of information between and among the agencies does not consistently meet the various needs of the respective organizations. According to several law enforcement representatives, MCPS personnel have appeared, at times, uncertain about when to contact law enforcement.

Similarly, MCPS representatives perceive that law enforcement officials, at times, do not provide school staff with full and complete information about criminal incidents that occur in the community involving MCPS students. Another area of some disagreement in recent years between MCPS and law enforcement staff has been the respective roles and responsibilities of agency staff regarding investigations of suspected criminal incidents that occur on school sites.

The MOU currently being negotiated seeks to clarify the information that each organization needs from the others, the process for sharing this information, and the process for conducting investigations of suspected criminal incidents that occur on school sites. While staff report significant progress has been made, as of this writing (August 2006), discussion among agency staff on the details of the MOU is ongoing.

PART B. PRIVACY LAWS

Records of disciplinary incidents maintained by schools are considered part of a "student record" or "education record" by both federal and state law.[4] The rest of this chapter examines the laws and regulations that govern MCPS' ability to release information from student records, both within the school system and to the public: the federal Family Educational Rights and Privacy Act[5] (FERPA), the Maryland Public Information Act,[6] Maryland regulations,[7] and MCPS regulations.

Family Educational Rights and Privacy Act (FERPA). FERPA prohibits school systems or schools that receive any federal education funds from releasing "educational records" or "personally identifiable information" about students to most third parties without parental consent.[8] Education records protected by FERPA include all materials maintained by a school system or school that "contain information directly related to a student," including student disciplinary records.[9] (See Appendix Document #31 for relevant portions of this law.)

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[4] 20 U.S.C. § 1232g(a)(4); Code of Maryland Regulations title 13A, § 08.02.03(C).
[5] 20 U.S.C. §1232g; 34 C.F.R. §§ 99.1 to 99.67.
[6] Annotated Code of Maryland, Governmental Procedures, §§ 10-611 to 10-630.
[7] Code of Maryland Regulations title 13A, § 08.02.18.
[8] 20 U.S.C. § 1232g(a), (b); 34 C.F.R. § 99.1.
[9] *U.S. v. Miami University*, 294 F.3d 797, 812 (6th Cir. 2002); see also *Forum Guide to the Privacy of Student Information: A Resource for Schools*, National Forum on Education Statistics, U.S. Department of Education 1 (2006).

According to the U.S. Department of Education's Family Policy Compliance Office, the federal office that implements FERPA, school systems may disclose information from student records to the general public without parental consent without violating FERPA "if 'personally identifiable information,' . . . has been removed."[10] Examples of personally identifiable information include:

- A student's names;
- Names of a student's parent(s) or family member(s);
- A student's address;
- A personal identifier, such as a social security number or student identification number;
- A list of personal characteristics that would make a student's identity easily traceable; and
- Other information that would make a student's identity easily traceable.[11]

FERPA does not preclude a school system from releasing information from student records that is not personally identifiable information.

Maryland Public Information Act. The Maryland Public Information Act (PIA) "grants the public a broad right of access to records that are in the possession of State and local government agencies"[12] while prohibiting or limiting the release of information from certain types of records.[13] The PIA specifically prohibits the release of information from "student records" about a student's:

- Home address;
- Home phone number;
- Biography;
- Family;
- Physiology;
- Religion;
- Academic achievement; and
- Physical or mental ability.

(See Appendix Documents #32 and #33 for the relevant portions of this law.)

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[10] Letter Interpreting FERPA from the U.S. Department of Education's Family Policy Compliance Office to the Board of Regents of the University System of Georgia (Sept. 25, 2003) at 2. Available online at http://www.ed.gov/policy/gen/guid/fpco/doc/georgialtr.doc.
[11] *Forum Guide to the Privacy of Student Information: A Resource for Schools* at 73.
[12] *Maryland Public Information Act Manual* (9th ed., February 2004).
[13] Annotated Code of Maryland, Governmental Procedures, § 10-612(a), (b).

The PIA allows disclosure of this information only to the student or an official who supervises the student.[14] The PIA grants limited access to student addresses and phone numbers to groups or organizations such as parent/teacher/student organizations and the military.[15]

Maryland Regulation. Maryland regulation forbids school systems from disclosing "personally identifiable information" from student records without the written permission of a student's parent or guardian or an eligible student.[16] (See Appendix Document #34 for this regulation.) Similar to FERPA, nothing in the regulations prevents a school system from disclosing information about students that is not "personally identifiable."

MCPS Policies and Regulations. The following MCPS policies and regulations address the release of information from student records to the public:

- Policy KBA, *Policy on Public Information* (January 9, 1968);
- Policy KBB, *Release of Data* (November 10, 1992);
- Regulation JOA-RA, *Student Records* (October 20, 2000);
- Regulation EGI-RA, *Release of Information on Students and Employees* (June 17, 1994); and
- Regulation EGH-RA, *Preparation of Statistical Reports* (April 1988).

(See Appendix Documents #35-39 for these policies and regulations.) MCPS Policy KBA, *Policy on Public Information*, states "[t]hat the Montgomery County Public Schools shall make available to the public, insofar as it is reasonable and possible, all data about the public schools, excepting only personal information about students or staff members . . . ." MCPS Policy KBB, *Release of Data*, further states that:

> Federal and state law provides for the public's right to inspect and obtain information generated by public agencies. MCPS practices have long supported these principles. The release of data, however, must be done so that the rights of individuals are protected as provided in the Family Educational Rights and Privacy Act and the Public Information Act of Maryland.

MCPS Regulation EGH-RA, *Preparation of Statistical Reports*, allows the release of statistics on schools and students, provides procedures for compiling and releasing such information, and makes this information public. None of these policies and regulations prohibits MCPS from releasing information from student records that does not contain personally identifiable information about students.

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[14] Ibid. § 10-616(k).
[15] Ibid. § 10-616(k)(3).
[16] Code of Maryland Regulations title 13A, § 08.02.18.

CHAPTER VI.   Feedback on Incident Reporting and Related Issues

During the course of gathering information for this project, OLO spoke with a wide range of individuals who have a shared interest in maintaining schools that are "safe havens" for teaching and learning, free from incidents of crime and violence. OLO conducted a combination of individual and group interviews with individuals representing:

- MCPS officials and staff, including Board of Education members, central office staff, principals, teachers, and security personnel;
- Parents of MCPS students;
- The Montgomery County Police Department;
- The Montgomery County Fire and Rescue Service;
- The State's Attorney's Office;
- The Department of Health and Human Services; and
- The Victim Services Advisory Board.[1]

This chapter summarizes the common themes heard during OLO's interviews.

FEEDBACK FROM MCPS STAFF

1.   Until this school year, MCPS' primary use for serious incident data has been to ensure a prompt and appropriate response to specific incidents.

MCPS staff report that serious incident data are examined daily in order to identify and respond to situations that occur throughout the school system. Information about serious incidents is disseminated routinely to the following individuals:

- Chief of Staff to the Superintendent;
- Deputy Superintendent of Schools;
- Deputy Superintendent, Information and Organizational Systems;
- Chief Operating Officer;
- Chief School Performance Officer;
- Director of the Department of School Safety and Security;
- Director of the Public Information Office;
- Community Superintendents; and
- Executive Assistant to the Chief School Performance Officer

The Office of School Performance produces an annual internal report that lists the number of each type of serious incident reported during a year; more detailed and/or frequent reports can be generated upon request.

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[1] The names of the individuals with whom OLO spoke and who provided information for this report are listed in Chapter I.

There was a general consensus expressed by staff interviewed that MCPS has generally not used information from MCPS' serious incident database for analyzing systemwide trends or comparing the types/frequency of incidents across schools. When necessary, MCPS compares suspension and expulsion data with information from MCPS' serious incident database to substantiate a Community Superintendent's decision regarding changes to a school's resources.

2. Some staff perceive that MCPS' practices of collecting serious incident data over the years has not resulted in consistent reporting of all incidents across schools.

MCPS' regulations authorize individual school principals to decide whether an incident that occurs (either at their school site, on a school bus, or at a school-sponsored activity) meets the definition of a "serious incident" that must be reported. MCPS administrators report that they work with principals at the beginning of every school year, making a concerted effort to ensure that all principals receive the same information about how and when to report serious incidents.

Most of the staff interviewed recognize the practicality and benefits of delegating this discretion about reporting serious incidents to individual principals. However, some staff observe that this approach will almost inevitably result in inconsistent reporting across the system because different principals see similar situations differently in different schools. Consequently, where some situations are reported as serious incidents in some schools, the same situations might not be reported as a serious incident in other schools.

Additionally, OLO heard a range of views expressed about whether principals report all serious incidents that occur in their schools. While some staff have strong confidence that most, if not all, incidents that meet the MCPS definitions of "serious incident" are consistently reported to the Office of School Performance, others expressed some skepticism about the extent of full reporting. Some school-based staff cited examples of incidents that occurred in their schools that, according to these staff, should have been reported as serious incidents, but were not.

3. MCPS staff hold a range of views about the merits of preparing and disseminating a report to the public about serious incidents that occur in schools.

All of the Board of Education members consulted expressed interest in pursuing an increased sharing of serious incident data, both within and outside the school system. While many MCPS administrators and staff support the general idea of developing and releasing regular reports to the public that contain information about serious incidents that occur in schools, others express concerns about doing so.

Staff who voice support for a more pro-active sharing of serious incident data see advantages of providing full and accurate information to parents, decision-makers, and other community members. Releasing more comprehensive data about serious incidents to the public could help dispel a perception that MCPS is "hiding" information.

Additionally, some MCPS staff believe that the public has an inherent "right to know" about incidents that occur at school.

Conversely, other MCPS staff express one or more of the following concerns about producing and widely disseminating a public report that contains information about serious incidents that occur at school:

- Schools are very safe environments and a report that highlights the criminal or other disruptive incidents that occur at schools might create the wrong impression;
- Releasing certain information about serious incidents could potentially violate laws regarding the privacy of student records; and
- It would be difficult to effectively communicate the large amount of complex information about serious incidents to the public in a way that is both clear and comprehensive.

4. **The serious incident database that MCPS had been using since 1993 was outdated and difficult to manipulate. The "old" technology limited MCPS' capacity to analyze and use the serious incident data for making management or resource allocation decisions.**

Numerous MCPS staff members commented that the current (soon to be replaced) database of serious incidents was outdated and difficult to manipulate. In particular, it is cumbersome to modify and difficult to extract information from.

As a result, the current database cannot collect the range of information desired by MCPS staff. For example, some MCPS staff want to review information about multiple serious incidents that occurred in the past over a period of time, but the database cannot generate this type of comparative information. Many MCPS staff members report that MCPS' new Incident Reporting System (IRS) has substantially increased capabilities compared to the old database and should be able to generate the range of information desired by MCPS staff.

FEEDBACK FROM MCPS PARENTS

5. **Parents who participated in OLO's interviews consistently expressed strong interest in receiving more information from MCPS about incidents of crime, violence, and other disruptive behavior that occur in schools.**

Almost every parent who spoke with OLO voiced strong interest in receiving more information from MCPS about serious incidents that occur in schools, especially those involving criminal or violent behavior. Parents want to be able to discuss incidents that occur in school with their children, based on accurate and timely information. Further, many parents believe there is a fundamental public right to know about incidents that occur in their children's schools.

Parents expressed appreciation for the letters that they occasionally receive from principals about a specific incident. At the same time, a commonly held perception by parents is that MCPS does not consistently share information about all serious incidents that occur in schools, on buses, or at school-sponsored events.

Many parents voiced interest in receiving more frequent communications from principals about all types of incidents that occur, regardless of how "serious" they are. Parents want to know what occurs as soon as possible, so that they can talk with their children based on timely and accurate information.

Parents explain that they often hear about incidents from their children, and what they hear contains a lot of incorrect information; parents would rather receive correct information directly from the school. Parents further explain that they would like to receive more information about serious incidents because, if their children witness or are affected by these incidents, the parents would like to have the opportunity to discuss the incident with and counsel their children accordingly.

In addition, many parents indicate they are keenly interested in receiving reports about the total number of serious incidents that occur in schools each semester or at the end of a school year. Parents would like this information broken down by type of incident and also want to know what action the school has taken in response.[2]

FEEDBACK FROM OTHERS

Interest expressed by representatives of agencies outside of MCPS in receiving information about serious incidents varies by the type of organization and the potential use of the information.

6. Representatives from the Montgomery County Police Department (MCPD) express interest in receiving immediate notification from MCPS about serious incidents that involve certain types of criminal acts.

According to MCPD representatives, the Police Department needs to receive immediate notification about certain types of criminal acts that occur at school. MCPD cites this communication among the agencies as critical if officers are going to effectively carry-out their law enforcement responsibilities. MCPD officials also expressed interest in quarterly reports of all criminal incidents that occur in the schools (reported by individual school and cluster) as part of an overall effort to analyze and address patterns of crime in the community.

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[2] Parents would like to see incident broken down by specific types of incident, such as those on Form 270-3, *Report of a Serious School Incident*, not by the broad categories listed in Regulation COB-RA, *Reporting a Serious Incident*.

As noted in Chapter V, MCPD representatives are currently working with MCPS and State's Attorney's Office staff to finalize a Memorandum of Understanding about the sharing of information among the groups and the protocol for conducting investigations of suspected criminal incidents involving MCPS students. For more information on the MOU, see Chapter V (page 36).

7. Representatives from the Montgomery County State's Attorney's Office express interest in receiving immediate notification from MCPS about certain types of serious incidents to allow the State's Attorney's Office to prepare for detention hearings.

Officials from the State's Attorney's Office indicate that in order to do their job properly, they need timely information from MCPS about serious incidents, but only in certain limited circumstances. Specifically, State's Attorney's Office staff express the need for information from MCPS when certain types of serious incidents occur, so that they can properly represent the interests of the State at Juvenile Court detention hearings.

The State's Attorney's Office is involved in approximately 200 detention hearings a year, of which only a relatively small number involve incidents that occur on MCPS sites. Consequently, there are very few times each year where the State's Attorney's Office needs information directly from MCPS about serious incidents.

8. Montgomery County Fire and Rescue Service staff indicate that they need to know about every fire or potential explosive device found at an MPCS site.

Montgomery County Fire and Rescue Service staff report that they have a very close working relationship with MCPS, especially with staff from MCPS' Department of School Safety and Security. MCFRS staff indicate that MCPS staff routinely report information about fires or potential explosive devices at MCPS sites to MCFRS.

MCFRS staff emphasize the importance of MCPS reporting every fire to MCFRS because it allows MCFRS to investigate and, in some situations, potentially identify students who might be setting fires in the community. These staff indicate that they are satisfied with how MCPS currently reports information to them.

9. Staff from the County's Department of Health and Human Services report that DHHS provides services to MCPS in response to some serious incidents.

Staff at DHHS' Crisis Center and Victim Assistance and Sexual Assault Program report that they provide services to MCPS when requested by MCPS. At times, DHHS provides these services in response to serious incidents that occur at MCPS.

According to DHHS staff, MCPS' ongoing working relationship with the Crisis Center is very functional. The Crisis Center employs counselors, clinical social workers, psychologists, and psychiatrists and provides assistance to County residents experiencing a crisis. Crisis Center staff provide services to MCPS at MCPS' request – sometimes providing counseling to individuals in response to a serious incident or to students referred to the Crisis Center by MCPS. Crisis Center staff indicate that the two organizations have worked diligently over the past few years to develop their present relationship.

Staff from the Victim Assistance and Sexual Assault Program (VASAP) report that their services are available to all County individuals, including victims of serious incidents at MCPS sites.[3] VASAP staff report that MCPS can refer students in need of help due to victimization to VASAP. The staff report that VASAP social workers are assigned to specific MCPS clusters to allow the social workers to develop relationships with the schools in a specific cluster.

10. The Victim Services Advisory Board expresses strong interest in MCPS more pro-actively sharing information about serious incidents that occur at school.

The Victim Services Advisory Board (VSAB) is established by County law; members are appointed by the County Executive and confirmed by the Council. The Board's responsibilities include: examining services and facilities available for victims and their families, reporting to the Council on the progress of programs for victims and their families, and assisting the Director of DHHS in developing the annual victim services and families plan.

VSAB members express strong interest in MCPS more pro-actively sharing information about serious incidents that occur at school. In particular, VSAB is interested in learning whether there are victims of crime (or other incidents) who potentially could use support services available, either through the County Government or other providers. VSAB is particularly interested in more information being made available about serious incidents at MCPS sites to help the Board fulfill its mission of examining and reporting on services provided to victims in the County.

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[3] Examples of VASAP's services include crisis counseling and information, support groups, assistance with the criminal justice system, and educational programs.

CHAPTER VII. Comparative Information on Incident Reporting Practices

Many school systems around the country maintain and report data on crimes committed on school sites and other disruptive incidents. The State of Maryland requires local school systems to report suspension and expulsion information by specified offense codes, but does not require reporting of all incidents. This chapter provides comparative information on incident reporting practices in other jurisdictions.

Part A, State-Level Requirements for Incident Reporting, provides an overview of the different state laws and policies that require schools to track and report incidents; it also describes state laws that explicitly address when school administrators must report incidents to law enforcement officials.

Part B, Incident Tracking and Reporting of "Peer" School Districts, describes the incident tracking and reporting practices of five other school districts that MCPS identifies as school system "peers."

Part C, Federal Law on Incident Reporting by Colleges and Universities, describes the federal law governing incident reporting by colleges and universities.

PART A.   STATE-LEVEL REQUIREMENTS FOR INCIDENT REPORTING

OLO examined the incident reporting laws and policies of all 50 states and the District of Columbia. As listed in Table 7-1 (page 50):

- In 31 states, state law requires local school systems to report incident data; and
- In 28 states, either a law or regulation requires the reporting of incidents to identify "persistently dangerous schools" under the federal No Child Left Behind Act of 2001 (NCLB).

Table 7-1 also identifies the states that require school systems to report incident data *and* use this data to identify persistently dangerous schools.

TABLE 7-1
CLASSIFICATION OF STATES BY
INCIDENT REPORTING REQUIREMENTS

State law requires reporting of school incidents *and* state uses incident data to identify "Persistently Dangerous Schools" under NCLB.			
Arkansas	Georgia	Nevada	Rhode Island
California	Kentucky	New Jersey	South Carolina
Colorado	Michigan	New York	Tennessee
Delaware	Mississippi	North Carolina	Virginia
District of Columbia	Missouri	Pennsylvania	

State law requires reporting of school incidents.			
Alabama	Hawaii	Massachusetts	Oklahoma
Alaska	Illinois	Minnesota	Texas
Florida	Kansas	New Mexico	Washington

State uses incident data to identify "Persistently Dangerous Schools" under NCLB.			
Arizona	Maine	Ohio	
Idaho	Montana	South Dakota	
Indiana	New Hampshire	West Virginia	

Other*			
Connecticut	**Maryland**	Oregon	Wisconsin
Iowa	Nebraska	Utah	Wyoming
Louisiana	North Dakota	Vermont	

Source: Laws and regulations of the 50 states and the District of Columbia
*Laws in these states only require reporting of incidents of bullying/harassment and/or the collection of suspension/expulsion data, except for Wyoming, which collects incident data under its interpretation of the federal Safe and Drug-Free Schools and Communities Act.

In general, state laws and regulations on incident reporting specify the incidents schools must report to local or state school administrators, and to whom school administrators must report incidents. Across the states that require incident reporting, there is variation in terms of:

- The type of incidents tracked, i.e., criminal and/or non-criminal;
- The number of categories of incidents tracked; and
- The definition of identical incidents in different jurisdictions, such as "assault."

A majority of the states with mandated incident reporting only require the tracking and reporting of criminal incidents that occur on school sites. The types of criminal incidents most frequently identified for mandatory reporting include:

- Abduction/missing child;
- Arson;
- Assaults;
- Drugs/alcohol;
- Fire;

- Homicide;
- Sex offenses;
- Threats/intimidation;
- Vandalism; and
- Weapons.

Incident reporting process and information collected. School administrators in many states must report incidents that occur in schools that pertain to the safety and welfare of their students. Many states outline the process for reporting incidents, which includes a chain of command and forms that must be used for reporting incidents.

All of the reporting forms examined tracked the following information about incidents:

- The date and time of the report;
- The date and time of the incident; and
- The location of the incident.

Examples of additional information collected in some states include: data on the perpetrator and victim, information on the disciplinary action(s) taken, and whether the community and/or law enforcement were alerted.

Reporting incidents to law enforcement. At least 20 states have laws explicitly addressing when school administrators must report incidents to law enforcement. New Jersey has a statewide Memorandum of Agreement between its law enforcement and educational administrators regarding school incidents. This Agreement requires immediate law enforcement notification in certain circumstances and mandates regular meetings between local law enforcement and school officials to discuss implementation and operational issues between the parties.[1]

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[1] *A Uniform State Memorandum of Agreement Between Education and Law Enforcement Officials, 1999 Revisions*, Approved by the New Jersey Department of Law & Public Safety and the New Jersey Department of Education (July 23, 1999).

Examples of other approaches are found in Delaware and Michigan. In Delaware, the School Crime Reporting Law of 2001, states that a principal may investigate certain incidents before calling the police, but requires a principal to call the police immediately in other situations.[2] In Michigan, the legislature delegated the drafting of a "statewide school safety information policy," which identifies the types of school incidents that must be reported to law enforcement, to the superintendent of public instruction, the state attorney general, and the director of the department of state police.[3]

Public reports of incident data. Some states publicly report state-level data on incidents while others publicly report data at the local school system or even individual school level.

At least 20 states have reports of school incident data easily available for public viewing on their state department of education websites.[4] Examples of data included in these reports are:

- Raw numbers of incidents;
- The number of incidents occurring at each school;
- Actions taken by a school, such as suspensions, expulsion, or referral to counseling;
- Characteristics of the students involved in incidents; and
- Times and locations of the incidents.

PART B. INCIDENT TRACKING AND REPORTING OF "PEER" SCHOOL DISTRICTS

OLO examined the incident data collection and reporting practices of five school districts that MCPS identifies as its "peers:"

- Baltimore County Public Schools, Maryland;
- Charlotte-Mecklenburg Public Schools, North Carolina;
- Fairfax County Public Schools, Virginia;
- Jefferson County Public Schools, Kentucky; and
- Palm Beach County Public Schools, Florida.

Table 7-3 (page 61) provides summary data on the demographics of these jurisdictions and lists the number of schools, total enrollment, number of staff, and total annual operating budget for the selected school districts.

OLO's research found that these school systems vary in how they each collect, use, share, and report incident data. The rest of this section summarizes the incident data collection and reporting practices for each of them.

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[2] Delaware Code Annotated, title 14, § 4112.
[3] Michigan Compiled Laws § 380.1308(1), (2).
[4] These states include: Alabama, California, Delaware, Florida, Georgia, Idaho, Kansas, Kentucky, Michigan, Minnesota, New Jersey, New Mexico, New York, North Carolina, Pennsylvania, South Carolina, Texas, and Virginia.

1. Baltimore County Public Schools, Maryland

As reviewed in Chapter II, Maryland' Safe Schools Reporting Act of 2005 requires local school systems to report incidents of "harassment or intimidation (bullying) against students."[5] Maryland law also requires local school systems to report the number of suspensions and expulsions in each school categorized by the type of incident that led to the suspension or expulsion.[6] Beyond these specific requirements, Maryland does not require local school systems to provide additional incident information to a State agency.

School officials in Maryland must report certain types of incidents that occur in schools to law enforcement. By State regulation (adopted by the Maryland State Board of Education), school officials must report all "delinquent acts" to law enforcement, whether the acts were committed on school property or away from school.[7] "Delinquent acts are defined as offenses committed by a person who is under 18 years old that would be crimes if committed by an adult."[8] The regulation explicitly provides that school officials do not need to report acts that schools have "traditionally treated as a matter of discipline to be handled administratively by the particular school."[9]

The Maryland State Department of Education publishes three annual reports based on the bullying, suspension, and expulsion data collected. One report compiles the bullying data by school system; a second report compiles individual school-level data on suspensions by major offense category; and a third report compiles school system level data on suspensions and expulsions by type of offense. All three reports are available on the web site of the Maryland State Department of Education.

In 2001, a consulting firm (MGT of America, Inc.) conducted a study on the organizational effectiveness of the Baltimore County public school system.[10] This report included an examination of information compiled by Baltimore County Public Schools on specific incidents. The report (which is publicly available), included a school-by-school breakdown of incident data; and provided recommendations and implementation timelines for improving safety and security in Baltimore County Public Schools.

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[5] Maryland Code Annotated, Education, § 7-424.

[6] Code of Maryland Regulations title 13A, § 08.02.09. The State of Maryland chose to use suspension/expulsion data as the basis for determining which Maryland schools are "persistently dangerous" under the No Child Left Behind Act. Schools in Maryland are persistently dangerous if, for three years in a row, 2.5% or more of enrolled students are suspended for more than 10 days or expelled for one of the following offenses: arson or fire; drugs; explosives; firearms; other guns; other weapons; physical attack on a student; physical attack on a school system employee or other adult; and sexual assault. Ibid. § 08.01.18.

[7] Code of Maryland Regulations Title 13A, § 08.01.15.

[8] Ibid. § .08.01.15(A).

[9] Ibid. § .08.01.15(B).

[10] *An Organization Study for Baltimore County Public Schools: Final Report*, MGT of America, Inc. (April 24, 2001).

2. Charlotte-Mecklenburg Public Schools, North Carolina

Charlotte-Mecklenburg Public Schools (CMS) is a consolidated school district of the City of Charlotte, North Carolina and Mecklenburg County. North Carolina's law requiring school systems to track school incidents states that:

> The State Board of Education shall monitor and compile an annual report on acts of violence in the public schools. The State Board shall adopt standard definitions for acts of school violence and shall require local boards of education to report them to the State Board in a standard format adopted by the State Board.[11] (See Appendix Document #40 for a copy of this statute.)

State Board of Education policy requires school districts to report data on certain "acts of violence" that occur in schools. The Board collects data on 17 specified types of incidents, e.g., sexual assault, rape, kidnapping, and assault involving the use of a weapon.[12]

In addition to reporting "acts of violence" to the State Board of Education, North Carolina law mandates that principals report specified types of incidents "immediately" to law enforcement.[13] (See Appendix Document #41 for a copy of this statute.) Failure to report accordingly is a Class 3 misdemeanor in North Carolina.[14]

Principals report incidents to the Office of Communications, CMS superintendent, and Charlotte-Mecklenburg's Public School Law Enforcement Department.[15] The Public School Law Enforcement Department, created in 1970, consists of sworn law enforcement officers, whose legal authority includes patrolling the schools, investigating incidents that occur on school sites, and making arrests.

The North Carolina Department of Public Instruction tracks information about each offender in an incident, including: students' social security number or student ID number; gender; ethnicity; age; grade level; and special education status. The Department also records the type of offense committed; whether law enforcement was notified; whether a weapon was used or possessed; consequences imposed, such as suspension or expulsion or referral to treatment; and the number of days a student was suspended.

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[11] North Carolina General Statutes § 115C-12(21).

[12] *2004-2005 Annual Report on School Crime and Violence*, North Carolina Department of Public Instruction (2005).

[13] These incidents are:

> [A]ssault resulting in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a weapon in violation of the law, or possession of a controlled substance in violation of the law.

North Carolina General Statutes § 115C-288(g).

[14] Ibid.

[15] North Carolina law requires principals to notify their superintendent anytime they report a specified offense to law enforcement. Ibid.

In CMS, schools submit "Crime and Violence Incident Reports" to the Alternative Education and Safe Schools Office when an incident occurs. Office staff in turn verify the incident and forward data (on a monthly basis) to the North Carolina Department of Public Instruction using a specific "Disciplinary Data Collection Form."

The State Department of Public Instruction compiles information collected from individual school districts into an "Annual Report on School Crime and Violence," which reports state and local school-level data. (See Appendix Document #42 for this report.) The state-level data presents aggregate information on the number of incidents, acts per 1,000 students, and multi-year trend data on the acts with the highest total occurrences.[16]

3. Fairfax County Public Schools, Virginia

Virginia law mandates that local school systems report data on certain incidents of discipline, crime, and violence that occur at schools, on buses, or at school-sponsored events to the Virginia Department of Education.[17] (See Appendix Document #43 for a copy of this statute.) The law identifies 27 types of incidents that must be reported, ranging from criminal acts that result in law enforcement action to student behavior that disrupts a classroom.[18] Superintendents and principals that fail to comply with the reporting requirements are subject to sanctions, such as demotion or dismissal.[19]

Principals must report certain criminal offenses listed in the statute to law enforcement officials "immediately."[20] Examples of these criminal offenses include:

- Assault and battery that results in bodily injury;
- Sexual assault;
- Death;
- Shooting;
- Stabbing, cutting, or wounding of any person;
- Stalking;
- Conduct involving alcohol, marijuana, controlled substances, or anabolic steroids;
- Threats against school personnel;
- Illegal carrying of a firearm;
- Illegal conduct involving firebombs, chemical bombs, or explosive devices; and
- Bomb threats.[21]

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[16] *Annual Report on School Crime and Violence*, North Carolina Department of Public Instruction (2005). In the 2004-2005 school year, the five highest-occurring incidents were: possession of a controlled substance; possession of a weapon, excluding firearms and explosives; possession of alcoholic beverage; assault on school personnel not resulting in serious injury; and assault on school personnel resulting in serious injury.
[17] Virginia Code Annotated § 22.1-279.3:1(A), (C).
[18] *Annual Report Discipline, Crime, and Violence: School Year 2003-2004*, Virginia Department of Education (May 2005).
[19] Virginia Code Annotated § 22.1-279.3:1(C).
[20] Ibid. § 22.1-279.3:1(D).
[21] Ibid. § 22.1-279.3:1(A)(ii) – (vii).

Fairfax County Public Schools' (FCPS) collects data required by State law plus additional incident[22] information used by the FCPS' Office of Safety and Security. Principals must complete a "Serious Incident Report" form and send it to the cluster director within three working days after the incident occurs.[23] (See Appendix Document #44 for this regulation and form.) If a serious incident is one of the State reportable incidents, the Office of Safety and Security submits the incident data to the state.[24] A principal may send home a "backpack letter" to the community at his or her discretion to provide information about a serious incident.[25]

FCPS maintains a computer database of reported incidents. If an incident is a State reportable incident, then FCPS sends it electronically to the Virginia Department of Education. Fairfax submits data to the State Department of Education throughout the year, but the data are not finalized until editing and verification at the end of the year.

The Virginia Department of Education's "Annual Report: Discipline, Crime, and Violence" summarizes incident data (statewide and by school district), explains how data are collected, and defines incidents. (See Appendix Document #45 for a copy of this report.) The report identifies the most frequently occurring incidents, a breakdown of the incidents for local school districts, and disciplinary actions resulting from incidents.[26]

The Virginia Department of Education also creates standardized Report Cards for the state, school districts, and individual schools.[27] These Report Cards compare data for the current year and two previous years on the occurrences of the following incidents:

- Fights;
- Firearm violations;
- Other weapons; and
- Serious incidents.[28]

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[22] Fairfax County Public Schools has a separate local regulation and reporting form governing serious or unusual incidents. The regulation defines "serious or unusual incidents" as:

> [A]ny occurrence that threatens the safety and security of students, employees, or property or that disrupts the instructional program or school activity. Serious indents are those that create an emergency and need to be reported immediately. Such incidents include, but are not limited to, incidents involving alcohol or other drugs, accidents resulting in death or serious injury, fires, suicide, bomb threats, weapons, and serious criminal activity.

Fairfax County Public Schools Regulation 2608.2(II), *Reporting Serious and Unusual Incidents* (2004).
[23] Ibid. 2608.2(III)(C)(7).
[24] Interview with the Director of the Fairfax County Public Schools Office of Safety and Security (June 30, 2006).
[25] Fairfax County Public Schools Regulation 2608.2(III)(C)(6).
[26] *Annual Report Discipline, Crime, and Violence: School Year 2003-2004*, Virginia Department of Education (May 2005).
[27] These report cards can be found online at http://www.pen.k12.va.us/VDOE/src/vasrc-reportcard-intropage.shtml.
[28] The term "serious incidents" in the Virginia state report cards refers to incidents of battery, homicide, sexual conduct, and destructive bomb devices. Interview with Data Specialist, Virginia Department of Education (August 11, 2006).

FCPS does not publish its own report of serious incidents, separate from what the school system is required to report to the Virginia Department of Education.

4. Jefferson County Public Schools, Kentucky

The Kentucky Department of Education collects school incident information and maintains a legislatively-mandated statewide database of the incidents, arrests, charges, disciplinary actions, and related information.[29] (See Appendix Document #46 for a copy of this statute.) In Jefferson County Public Schools, incident reports are submitted to the State Department of Education through an online reporting system.

Two Kentucky laws address mandatory reporting of school-based incidents to law enforcement. Principals must report immediately to law enforcement the following incidents:

> [A]ssault resulting in serious physical injury, a sexual offense, kidnapping, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a controlled substance in violation of the law, or damage to the property . . . .[30]

A separate law requires school staff to report to law enforcement all felonies plus all misdemeanors relating to deadly weapons or controlled substances, if the incident occurred on or within 1000 feet of school premises, on a school bus, or at a school-sponsored or sanctioned event.[31] (See Appendix Documents #47 and #48 for these statutes.) Failure to report information under this law is a Class A misdemeanor.[32] (See Appendix Document #49 for this statute.) Jefferson County Public Schools employs 21 law enforcement officers who work exclusively in the public schools.

The Kentucky Department of Education publishes School Report Cards that include accountability data at the individual school and district level.[33] A state law and administrative regulation requires Jefferson County Public Schools to send accountability data to parents and to make it available for the general public.[34] Jefferson County Public Schools' 2004-2005 "District Report Card" reports the number of incidents of first degree assault, drug abuse violations, weapons violations, and the number of suspensions and

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[29] The state collects information about the following types of incidents:
    All incidences of violence and assault against school employees and students; incidences of possession of guns or other deadly weapons on school property or at school functions; and incidences of the possession or use of alcohol, prescription drugs, or controlled substances on school property or at school functions . . . .
Kentucky Revised Statutes § 158.444.
[30] Ibid. § 158.154.
[31] Ibid. § 158.155.
[32] Ibid. § 158.990.
[33] These report cards can be found online at
http://www.education.ky.gov/KDE/About+Schools+and+Districts/School+Report+Cards/default.htm.
[34] Kentucky Revised Statutes § 158.6453; 703 Kentucky Administrative Regulations 5:140.

Schools' 2004-2005 "District Report Card" reports the number of incidents of first degree assault, drug abuse violations, weapons violations, and the number of suspensions and expulsions associated with those incidents.[35] (See Appendix Document #50 for a Report Card from a Jefferson County Public Schools high school).

5. Palm Beach County Public Schools, Florida

Florida law mandates that individual schools report verified data concerning school safety and discipline to the Florida Department of Education.[36] (See Appendix Document #51 for this statute.) The Department of Education collects incident data on 21 types of crime, violence, and disruptive behavior. The Department of Education collects these data using the School Environmental Safety Incident Report (SESIR) system, which is the reporting system the Department uses to collect incident data that occur on school grounds, during school-sponsored transportation, and at off-campus, school-sponsored events during any 24-hour period, 365 days per year.

Florida law also requires all local school boards and local law enforcement to enter into "agreements" that contain guidelines for reporting felonies, violent misdemeanors, and delinquent acts to law enforcement. Specifically, the law states:

> Each district school board shall enter into agreements with the county sheriff's office and local police department specifying guidelines for ensuring that felonies and violent misdemeanors, whether committed by a student or adult, and delinquent acts that would be felonies or violent misdemeanors if committed by an adult, are reported to law enforcement. . . . Such agreements shall include the role of school resource officers, if applicable, in handling reported incidents, special circumstances in which school officials may handle incidents without filing a report to law enforcement, and a procedure for ensuring that school personnel properly report appropriate delinquent acts and crimes.[37]
> (See Appendix Document #52 for a copy of this statute.)

Palm Beach County Public Schools has its own School Police Department, whose authority includes patrolling schools, conducting investigations, and making arrests. The School Police Department maintains student incident records and provides information to the public on individual cases in response to formal public information requests.

The Florida Board of Education publishes an annual "Statewide Report on School Safety and Discipline Data," which summarizes the incident data collected for the most recent three years.[38] (See Appendix Document #53 for a copy of this report for the 2004-2005 school year.) The report disaggregates discipline data by gender and race.

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[35] *Jefferson County, Kentucky District Report Card 2004-2005*, Kentucky Board of Education (2005).
[36] Florida Statutes Annotated § 1006.09(6).
[37] Ibid. § 1006.13(3).
[38] *Statewide Report on School Safety and Discipline Data 2004-2005*, Florida Department of Education (January 2005).

The Florida Board of Education also requires every school to create an annual report containing various school performance data, including data on "school safety and environment."[39] (See Appendix Document #54 for a copy of this regulation.) Schools must report the number of incidents of:

- Violence;
- Weapons violations;
- Vandalism;
- Substance abuse; and
- Harassment on the bus, on campus, and at school-sponsored activities.[40]

Schools are required to distribute this report annually to parents, guardians, and adult students and provide copies to the public upon request.[41]

PART C. FEDERAL LAW ON INCIDENT REPORTING BY COLLEGES AND UNIVERSITIES

Since 1990, colleges and universities in the United States that participate in federal student financial aid programs must disclose information about crime on and around their campuses.[42] The federal statute requiring this reporting is the "Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act," most frequently referenced as simply the "Clery Act." (See Appendix Document #55 for a copy of the statute.) The federal Department of Education enforces this law.

Under the Clery Act, colleges and universities must publish an annual report disclosing crime statistics for three years that includes data on:

- Type of crime;
- Where the crime occurred;
- To whom the crime was reported; and
- When the crime was reported.[43]

Table 7-2 (page 60) lists the categories of offenses that colleges and universities must report. (See Appendix Document #56 for a copy of Montgomery College's *2005 Annual Security Report* containing required Clery Act data.)

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[39] Florida Administrative Code Annotated r. 6A-1.09982(1)-(2).
[40] Ibid. § 6A-1.09982(2)(a)(5).
[41] Ibid. § 6A-1.09982(1).
[42] 28 U.S.C. § 1092(f).
[43] *The Handbook for Campus Crime Reporting*, Office of Postsecondary Education, U.S. Department of Education 23 (2005).

TABLE 7-2
REQUIRED CATEGORIES OF OFFENSES REPORTED UNDER THE CLERY ACT

CATEGORIES OF OFFENSES	
Murder	
Sex offenses	Forcible
	Non-forcible
Robbery	
Aggravated assault	
Burglary	
Motor vehicle theft	
Manslaughter	
Arson	
Hate Crimes	Any of the above crimes and other crimes involving bodily injury to any person in which the victim is intentionally selected because of the actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability of the victim.
Arrests and Referrals for Disciplinary Action for the following crimes	Liquor law violations
	Drug-related violations
	Weapons possession

Source: 28 U.S.C. § 1092(f)(1)(F).

The Clery Act requires colleges and universities to disclose all reported crimes,[44] make the data available to current and prospective students,[45] make the data available to the public upon request;[46] and submit the data to the federal Department of Education.[47] The Clery Act also requires colleges and universities to give timely warnings to the campus community of reported crimes that present a threat to the safety of students and institution staff.[48] Colleges and universities may not identify victims of crimes or people accused of crimes when reporting this information.[49]

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[44] 28 U.S.C. § 1092(f)(1)(F).
[45] Ibid. § 1092(f)(1).
[46] Ibid. § 1092(f)(4)(B)(i).
[47] Ibid. § 1092(f)(5).
[48] Ibid. § 1092(f)(3).
[49] Ibid. § 1092(f)(7).

TABLE 7-3
U.S. CENSUS AND SCHOOL DISTRICT DATA FOR MCPS AND SELECTED "PEER" JURISDICTIONS

| Jurisdiction | 2005 Estimated Total Population | Median Household Income | Families Below Poverty Level (%) | Ethnicity of Total Population of Local Jurisdiction | | | | Percent of Population Below the Age of 18 (%) | Public School District Data | | | Total Staff (Teachers) |
				White (%)	Black or African American (%)	Asian (%)	Hispanic or Latino – any race (%)*		Number of Public Schools	Total Student Enrollment in Public Schools	FY 06 Adopted Operating Budget (millions)	
Montgomery County, MD	928,000	$71,551	3.7	64.8	15.1	11.3	11.5	25.4	195	145,622	$1,710	20,175 (10,040)
Baltimore County, MD	786,000	$50,667	4.5	74.4	20.1	3.2	1.8	23.6	163	107,386	$1,088	15,018 (8,351)
Charlotte-Mecklenburg, NC	796,000	$50,579	6.6	64.0	27.9	3.1	6.5	25.1	150	126,903	$979	15,783 (8,141)
Fairfax County, VA	1,007,000	$80,050	3.0	69.9	8.6	13.0	11.0	25.4	228	163,534	$1,900	21,859 (13,573)
Jefferson County, KY	700,000	$39,457	9.5	77.4	18.9	1.4	1.8	24.3	150	97,000	$573	14,000 (5,600)
Palm Beach County, FL	1,269,000	$45,062	6.9	79.1	13.8	1.5	12.4	21.3	164	176,162	$1,350	21,616 (12,025)

Source: US Census Bureau (2000); Data from individual "peer" school districts
* Percentage of Hispanic or Latino is of any race, and therefore the total ethnicity percentage may not add up to 100%.

CHAPTER VIII. Findings

The Office of Legislative Oversight's findings on Montgomery County Public Schools' "serious incident" reporting process and related issues are organized into four parts:

- The research;
- The legal framework;
- How MCPS tracks and reports serious incidents, including views on MCPS' current and planned practices of collecting and sharing incident data; and
- Comparative information.

THE RESEARCH

Finding #1: **Educators, parents, and policy-makers agree that schools should be "safe havens" for teaching and learning, free from crime, violence, and disruptive behavior.**

There is a general consensus that maintaining our schools as safe learning environments is a top priority. Research on the impact of school crime and violence shows that, among other things, "violence, or the threat of violence, impedes the teaching and learning process and thus student achievement."[1] The research further finds that "any instance of crime or violence at school not only affects the individuals involved but also may disrupt the educational process and affect bystanders, the school itself, and the surrounding community."[2]

Finding #2: **Nationwide research finds that children are safer at school than any other place they go during the day. At the same time, serious and non-serious incidents do occur at schools.**

National research conducted under the auspices of the federal government (Departments of Education, Justice, and Health and Human Services) finds that while the prevalence of crime and violence varies among communities, schools are generally very "safe places" for children, especially when compared to other places they go during the day.[3]

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[1] *Safe Schools Manual* at 5. See also *Safety in Numbers* at 4 ("Significant improvements in learning were reported by Nelson and colleagues . . . from a comprehensive school-wide program to prevent problem behaviors."); *Order in the Classroom: Violence, Discipline, and Student Achievement* at 3 ("The frequency of serious and nonserious offenses is negatively related to academic achievement in all four subject areas studies – mathematics, reading, science, and social science.").

[2] *Indicators of School Crime and Safety: 2005* at 1.

[3] *Juvenile Offenders and Victims: 2006 National Report* at 29 ("In 2001, students were safer in school and on their way to school than they were in 1992."); *Safe Schools Manual* at 2 ("[S]chools are not any less safe than other similarly populated communities."); *Indicators of School Crime and Safety: 2005* at iv ("Students [are] more likely to be victims of serious violence or a homicide away from school.").

Although national data indicate decreasing trends in rates of student victimization over the last decade, incidents of crime and other disruptive behavior at school still occur. For example, nationwide survey results published in 2005 by the Centers for Disease Control and Prevention included the following findings on incidents of crime and violence among high school students:

- Nationwide, 29.8% of students had their property (e.g., clothing, books, car) stolen or intentionally damaged on school property at least once in the 12 months preceding the survey;
- Nationwide, 13.6% of students were in a physical fight on school property one or more times in the 12 months preceding the survey;
- Nationwide, 7.9% of students had been threatened or injured with a weapon (e.g., a gun, knife, or club) on school property one or more times in the 12 months preceding the survey;
- Nationwide, 6.5% of students had carried a weapon (e.g., a gun, knife, or club) on school property one or more times in the 30 days preceding the survey; and
- Nationwide, 6% of students had not gone to school at least one day in the 30 days preceding the survey because they felt they would be unsafe at school or on their way to or from school.[4]

Finding #3: **Schools can use data about incidents that occur in school to help gauge the extent and nature of the problem, and to identify ways to make schools safer.**

Efforts to address issues of school safety should begin with an accurate understanding of the extent and nature of the problem. The National Center for Education Statistics' (NCES) report, *Safety in Numbers: Collecting and using Crime, Violence, and Discipline Incident Data to Make a Difference in Schools*, advocates for the collection of data about all types of school incidents, from incidents requiring law enforcement involvement to minor disruptions like tardiness.[5] This report echoes the finding that "violence, and threats of violence greatly impede learning" and observes that "[m]any schools have seen academic benefits from the use of strong data collection systems as a part of violence prevention and school improvement efforts . . . ."[6]

In addition to internal school system use of incident data, a number of reports on school safety explicitly advocate for the voluntary reporting of incident data to parents and the general public. The voluntary reporting of incident data conveys a message that school administrators are proactively monitoring their performance. It also assures the public that the school district had a plan to improve student behavior.[7]

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[4]"Youth Risk Behavior Surveillance – United States, 2005" at 7-9.
[5] *Safety in Numbers* at 1.
[6] Ibid. at 4.
[7] Ibid. at 19.

The concluding chapter of the NCES report summarizes the value of collecting incident data as follows:

> To reiterate the theme of this report, collecting and using incident data are essential to creating the safe and orderly environments that students need in order to learn. Data are important to help:
>
> - Replace hunches with facts,
> - Identify the causes of problems,
> - Assess needs so that services can be targeted,
> - Determine whether goals are being accomplished,
> - Understand the impact of prevention and intervention, and
> - Answer community questions regarding the results of their investment. . . .
>
> While a comprehensive incident database makes it easier to manage resources and complete state and Federal incident reports, the most important reason to collect data is to facilitate activities that promote learning (i.e., improving school safety and focusing discipline reform efforts). Using incident data to make a different in schools is a cyclical activity. Without accurate data, it is difficult to take appropriate steps to create climates conducive to learning."[8]

THE LEGAL FRAMEWORK

Finding #4: **MCPS must comply with federal and state legal requirements to report data about student suspensions and expulsions. MCPS must simultaneously comply with legal mandates on maintaining the privacy of certain information in student records.**

The following federal laws require all states to report data to the U.S. Department of Education about school incidents resulting in suspensions and/or expulsions:

- The Safe and Drug-Free Schools and Communities Act;
- The Gun-Free Schools Act; and
- The Individuals with Disabilities Education Act.

Local school systems in Maryland report local suspension and expulsion data to the Maryland State Department of Education, which passes the data on to the U.S. Department of Education. Under the Maryland Safe Schools Reporting Act of 2005, local school systems must also report incidents of harassment or intimidation (bullying) to the Maryland State Department of Education (MSDE). The MSDE prepares annual public reports that contain these data on suspensions, expulsions, and bullying incidents.

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[8] Ibid. at 87.

When releasing any information from student records, schools must also comply with federal and state privacy laws, which prohibit schools from publicly releasing "personally identifiable information" about students without parental permission. In sum, the laws and regulations protecting student privacy do not prohibit MCPS from releasing information from student records to the public as long as the information does not contain "personally identifiable information" about individual students.

MCPS' "SERIOUS INCIDENT" DATA COLLECTION AND REPORTING

Finding #5: **For many years, the primary purpose for MCPS' serious incident data collection efforts was to ensure a prompt and appropriate response by school administrators and staff to specific incidents.**

Montgomery County Public Schools (MCPS) first adopted procedures and policies for identifying "serious incidents" that occur in schools or at school-sponsored activities in the early 1970s.[9] In 2004, MCPS started the process of replacing the computer database that it has used to record serious incidents since 1993. This process will alter the way MCPS gathers, records, and releases information about serious incidents in the future.

Until recently, the primary purpose for MCPS' serious incident data collection efforts has been to ensure a prompt and appropriate response by school administrators and staff to specific incidents. Although MCPS' Office of School Performance compiles a summary of serious incident data on an annual basis, MCPS staff generally have not used these data to analyze systemwide trends or to compare the types/frequency of incidents across schools.

MCPS' current practices for externally sharing information about serious incidents that occur at school include the following activities: when necessary, individual principals send letters home to parents to inform them about the occurrence of a serious incident; MCPS reports school-by-school data on suspensions and expulsions (listed by category of incident) to the Maryland State Department of Education; and MCPS provides serious incident data to the press or individuals in response to individual Maryland Public Information Act requests. However, MCPS' current data sharing practices do not include preparing and disseminating a regular report to parents and/or the general public that provides raw serious incident data or analysis of serious incident data.

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[9] MCPS' definition of "serious incident" is in Chapter I on page 2.

Finding #6:   MCPS' new Incident Reporting System (IRS) will expand the type of information MCPS can collect about serious incidents and will enhance its ability to analyze and compare information about serious incidents systemwide.

The database that MCPS has used to record data about serious incidents since 1993 does not have the capability to provide meaningful systemwide trend analysis of the data. Two years ago, MCPS began the process of replacing the database that it has used since 1993 with an Incident Reporting System (IRS). Some schools are already using the IRS and all MCPS schools are scheduled to be using the new system by December 2006.

The IRS will allow MCPS to track the information that it could not track with the old database, including:

- Name(s) and identification number(s) of student involved in serious incidents;
- Disabilities of students involved in serious incidents;
- The geographic location of a serious incident on an MCPS site;
- Injuries inflicted during serious incidents;
- Gang involvement in serious incidents; and
- Value of damage or loss to property caused during a serious incident.

MCPS has expanded the number of categories of incidents that it will track with the IRS from 69 to 102. The IRS will allow MCPS to examine trends and identify patterns in serious incident data in individual schools and systemwide in addition to producing day-to-day reports about serious incidents.

Finding #7:   Parents who participated in OLO's interviews consistently expressed strong interest in receiving more information from MCPS about serious incidents that occur in schools.

Almost every parent OLO spoke with voiced an interest in receiving more information from MCPS about serious incidents that occur in schools, especially incidents of crime, violence, and other disruptive behavior. Parents want to be able to discuss situations that occur in school with their children and counsel them accordingly. Further, many parents believe there is a basic public right to know about incidents that occur in their children's schools.

Parent expressed appreciation for the letters that they sometimes receive from principals about a specific incident. At the same time, a commonly held perception by parents is that MCPS does not consistently share information about all serious incidents that occur in schools, on buses, or at school-sponsored events.

Many parents indicate that in addition to being informed about specific incidents shortly after they occur, they would be interested in seeing reports once or twice a year about the total number of serious incidents that occur in all MCPS schools. Parents would like this information broken down by type of incident; they also want to know what actions the schools are taking in response to the incidents that have occurred.

Finding #8:   MCPS representatives hold a range of views about the merits of preparing and disseminating a report to the public about serious incidents that occur in schools.

All of the Board of Education members consulted expressed interest in pursuing an increased sharing of serious incident data, both within and outside the school system. While many MCPS administrators and staff support the general idea of developing and releasing regular reports to the public that contain information about serious incidents that occur in schools, others express concerns about doing so.

Staff who voice support for a more pro-active sharing of serious incident data see advantages to providing full and accurate information to parents, decision-makers, and other community members. Further, releasing more comprehensive data about serious incidents to the public could help dispel a perception that MCPS is "hiding" information.

Conversely, some MCPS administrators and staff express concerns about producing and widely disseminating a public report that contains serious incident data. In particular, they articulate concerns about violating students' privacy rights and creating the wrong impression that schools are unsafe places. Further, they are concerned about being able to effectively communicate the large amount of complex information about serious incidents to the public in a clear and informative way.

Finding #9:   Representatives of other County agencies cite the need for data about serious incidents that occur in MCPS schools.

Staff in other County agencies voice both an interest and need for information about certain types of serious incidents that occur in schools. Specifically:

- The Montgomery County Police Department (MCPD) expresses a need to know about incidents of crime that require a law enforcement response/investigation;
- The Montgomery County Fire and Rescue Service expresses a need to know about incidents involving fire or explosive devices that require investigation; and
- The Montgomery County State's Attorney's Office expresses a need for information about certain types of incidents of crime that result in an arrest of a juvenile and a subsequent juvenile detention hearing.

Representatives from MCPS, MCPD, and the State's Attorney's Office have been working together for the past year to draft an inter-agency Memorandum of Understanding. The purpose of the MOU is to establish agreed-upon procedures for sharing information and conducting investigations of suspected incidents of crime involving MCPS students that occur either in schools or elsewhere in the community.

In addition to the law enforcement uses described above, other County Government programs have ongoing interests in being informed about certain types of serious incidents that occur in schools. In particular, at MCPS' request, the Department of Health and Human Services' Crisis Center is able to provide on-site crisis counseling and other support services to school staff. Another DHHS program, the Victim Assistance and Sexual Assault Program (VASAP) can provide victims of crime with a range of victim services, including specialized counseling, court accompaniment, and assistance with filing for victim compensation.

In addition, the Victim Services Advisory Board (VSAB) maintains an ongoing interest in information about certain types of serious incidents that occur in schools, as it relates to VSAB's mission of assessing and acting to improve the network of services available to victims of crime in the County.

COMPARATIVE INFORMATION

Finding #10: **A majority of states have enacted laws requiring schools to track and publicly report information about incidents of crime and violence that occur in schools.**

Schools in a majority of states are required, by state law, to collect and report information to state or local government agencies about incidents of crime that occur in schools. State laws most often require schools to report criminal incidents such as arson, assaults, drug offenses, sex offenses, vandalism, and possession of weapons.

State and local agencies, in turn, publicly release information about incidents of school crime in a variety of ways, including written reports to state legislatures and electronic data available on state Department of Education or local school system websites. The specific types of information and extent of detail publicly disseminated varies across jurisdictions.[10]

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[10] See Chapter VII for specific examples of incident reporting in Florida, Kentucky, North Carolina, and Virginia.

Finding #11: Some of MCPS' "peer" school districts already collect and report school incident data based on state law.

OLO examined the incident tracking and reporting requirements and practices of the following five schools districts that MCPS identifies as "peer" school systems: Baltimore County, Maryland; Charlotte-Mecklenburg, North Carolina; Fairfax County, Virginia; Jefferson County, Kentucky; and Palm Beach County, Florida.

Baltimore County Public Schools follows the same state laws as MCPS, and is required only to report suspension and expulsion data (categorized by type of incident) and incidents of harassment or intimidation (bullying) to the Maryland State Department of Education. The other four school systems are located in states with laws requiring school districts to collect and report certain school incident data to state government agencies. In sum:

- Charlotte-Mecklenburg Public Schools follows North Carolina law that requires the State Board of Education to "monitor and compile an annual report on acts of violence in the public schools." The Board collects data from school systems on 17 specific types of incidents.[11]

- Fairfax County Public Schools complies with Virginia law that requires local school systems to report 27 types of incidents of discipline, crime, and violence to the Virginia Department of Education.[12]

- Jefferson County Public Schools complies with Kentucky law that requires the maintenance of a statewide database of criminal incidents, arrests, charges, disciplinary actions, and related information.[13]

- Palm Beach County Public Schools complies with Florida law that requires schools to report 21 types of crime, violence, and disruptive behavior directly to the Florida Department of Education.[14]

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[11] North Carolina General Statutes § 115C-12(21).
[12] Virginia Code Annotated § 22.1-279.3:1(A), (C).
[13] Kentucky Revised Statutes § 158.444.
[14] Florida Statutes Annotated § 1006.09(6).

CHAPTER IX.   Recommendations

Educators, parents, and policy-makers agree that schools should be "safe havens" for teaching and learning. Student exposure to disruptive school behavior impedes the learning process and student achievement. National research finds that schools are generally very safe places and that rates of student victimization at school are declining. However, schools are still not entirely free of crime, violence, and other disruptive behavior.

As stated in the U.S. Departments of Education's and Justice's 2005 joint report on school crime and safety, any efforts to address issues of school safety must begin with an accurate understanding of the extent and nature of the problem:

> [I]t is difficult to gauge the scope of crime and violence in schools without collecting data, given the large amount of attention devoted to isolated incidents of extreme school violence. Ensuring safer schools requires establishing good indicators of the current state of school crime and safety across the nation and periodically monitoring and updating these indicators.[1]

Based on the premise that any informed discussion of school safety should begin with the compilation and sharing of accurate information about the extent and nature of the problem, the rest of this chapter outlines OLO's recommendations that the County Council take the following three actions:

- Recommend to the Board of Education and Superintendent of Schools that MCPS adopt, no later than April 1, 2007, an action plan for the preparation, use, and public release of a "School Safety Report."

- Communicate the Council's expectation to the Board of Education, County Executive, and State's Attorney that, no later than November 1, 2006, agency representatives will execute a Memorandum of Understanding for sharing information and conducting investigations of suspected criminal incidents that involve MCPS students.

- Explore the merits of pursuing State legislation that, patterned after statutes adopted in other states, would require all public school districts in Maryland to track and publicly report certain school safety data.

The details of these three recommendations are outlined below.

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[1] DeVoe, J.F., Peter, K., Noonan, M., Snyder, T.D., and Baum, K., *Indicators of School Crime and Safety: 2005*, National Center for Education Statistics, U.S. Department of Education and Bureau of Justice Statistics, U.S. Department of Justice iii (2005).

RECOMMENDATION #1 FOR COUNCIL ACTION:

Recommend to the Board of Education and Superintendent of Schools that, no later than April 1, 2007, MCPS adopt an action plan for the preparation, use, and public release of a "School Safety Report."

Many school districts across the country already compile and publish data and related information about school crime and safety. Publicly sharing this type of information can foster the message to the community that even though schools are generally very safe places, schools are pro-actively monitoring their performance and school administrators place high priority on the need to maintain and improve school safety.

Throughout the course of conducting this study, OLO spoke with a wide range of individuals both within and outside of the school system. A consistent view expressed was strong interest in obtaining reliable, valid, and easily understood information about the extent and nature of crime, violence, and other disruptive behavior that occurs in schools. Similarly, there was broad interest expressed in knowing what actions school administrators have already taken and will take in the future to address incidents that have occurred.

Montgomery County Public Schools (MCPS) first adopted procedures and policies for identifying "serious incidents" that occur in schools or at school-sponsored activities in the early 1970s.[2] In 2004, MCPS started the process of replacing the computer database that it has used to record serious incidents since 1993. The advent of MCPS' new web-based Incident Reporting System for tracking and reporting serious incident data provides an opportunity for MCPS to enhance how information about incidents that occur at schools is collected, analyzed, used, and shared, both within and outside of the school system.

The County Council should recommend to the Board of Education and Superintendent of Schools that MCPS adopt, no later than April 1, 2007, an action plan for the preparation, use, and public release of a "School Safety Report." At minimum, the School Safety Report should contain easily understood, reliable, and valid data on incidents of crime and disruptive behavior that occur on MCPS school sites, on buses, or at school-sponsored events, and information on the steps that MCPS staff have already and/or plan to take in order to promote and maintain a safe learning environment.

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[2] MCPS' definition of "serious incident" is in Chapter I on page 2.

OLO recommends that the action plan adopted by the Board of Education and Superintendent of Schools address the following specific issues:

1. The categories of incident data to include in the School Safety Report, e.g., assaults, bullying, fights, gang-related activity; hate crimes, possession of weapons, possession/use/sale of controlled substances, sexual offenses, thefts, vandalism, other disruptive behaviors.

2. The level for which incident data will be presented in the School Safety Report, e.g., by individual school, cluster, systemwide.

3. How school administrators and staff are using incident data to promote and ensure a safe learning environment; and how the School Safety Report will incorporate information about specific actions taken or planned, e.g., disciplinary measures; service referrals; implementation of prevention programs; allocation of safety/security-related resources.

4. Plans for adopting MCPS policies and regulations to promote and verify that principals report consistent and reliable incident data across the school system.

5. Plans for making the School Safety Report available to parents, other agency officials/staff, the press, and the general public.

6. A schedule for regularly updating and publishing the School Safety Report.

OLO recommends that in order to stay apprised of MCPS' progress on developing the action plan and School Safety Report, the Council should agree upon a date by which MCPS officials are asked to report back to the Council.

RECOMMENDATION #2 FOR COUNCIL ACTION:

Communicate the Council's expectation to the Board of Education, County Executive, and State's Attorney that, no later than November 1, 2006, agency representatives will execute a Memorandum of Understanding for sharing information and conducting investigations of suspected criminal incidents that involve MCPS students.

As reviewed in Chapter IV, Maryland law and regulation contain a number of provisions that require the sharing of information between and among schools and law enforcement. Specifically:

- Schools are required to share information about "delinquent acts" that occur in schools with law enforcement, unless a schools traditionally treats the conduct administratively as a disciplinary matter.

- Law enforcement is required to inform schools about students who are arrested for "reportable offenses."

OLO's comparative research found that the laws in many states, in addition to Maryland, establish various requirements for school administrators to report criminal acts to law enforcement.[3] In some states, (e.g., North Carolina, South Carolina, Virginia), failure to report these incidents is a crime or could result in sanctions or civil liability for school administrators.[4]

Here in Montgomery County, representatives from MCPS, the Montgomery County Police Department (MCPD), and the State's Attorney's Office have been working for more than a year on crafting a Memorandum of Understanding (MOU) among the agencies regarding the sharing of information about students involved in criminal incidents and the investigation of suspected criminal incidents that occur on school sites. As indicated above, Maryland law and regulation already require MCPS and MCPD to share information about "delinquent acts" that occur in schools[5] and about students arrested for reportable offenses.

The MOU currently being negotiated seeks to clarify the information that each organization needs from the others, the process for sharing this information, and the process for conducting investigations of suspected criminal incidents that occur on school sites. While staff report significant progress has been made, as of this writing (August 2006), discussion among agency staff on the details of the MOU is ongoing.

OLO recommends that the Council communicate its expectation to the Board of Education, County Executive, and State's Attorney that they execute the MOU concerning the sharing of information among MCPS, MCPD, and the State's Attorney's Office no later than November 1, 2006. The intent of the MOU is to provide the parties with clear and mutually agreed-upon guidelines for the exchange of information about and investigation of suspected criminal incidents involving MCPS students. If necessary, of course, the parties can review and amend the MOU if the initially agreed-upon procedures do not work in practice.

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[3] Kentucky Revised Statutes Annotated § 158.154; New Hampshire Revised Statutes Annotated § 193-D:4(a); North Carolina General Statutes § 115C-288(g); Tennessee Code Annotated § 49-6-4301.

[4] North Carolina General Statutes § 115C-288(g) (failure to report is a Class 3 misdemeanor); South Carolina Code Annotated § 59-63-335 (school administrators and school districts liable for attorney's fees and costs associated with legal actions to force school administrators to report crimes); Virginia Code Annotated § 22.1-279.3:1(C) (sanctions for principals and superintendents who fail to report).

[5] The regulation exempts schools from reporting "conduct which has been traditionally treated as a matter of discipline to be handled administratively by a particular school." Code of Maryland Regulations Title 13A, § 08.01.15(B).

RECOMMENDATION #3 FOR COUNCIL ACTION:

Explore the merits of pursuing State legislation that, patterned after statutes adopted in other states, would require all public school districts in Maryland to track and publicly report certain school safety data.

Maryland is among a minority of states that do not require public school districts to track and report the number of criminal and/or disruptive incidents that occur in schools to local or state officials. The school incident reporting laws enacted in more than 35 states most often require schools to report criminal incidents such as arson, assaults, drug offenses, sex offenses, vandalism, and possession of weapons.

OLO recommends that the Council initiate discussions with the Board of Education, Superintendent of Schools, and the Office of Intergovernmental Relations on the merits of pursuing State legislation that would require all school districts in Maryland to track and publicly report certain school safety data.

The same reasons that OLO advocates increased attention to the compilation, use, and public release of serious incident data and related school safety information in Montgomery County apply to other jurisdictions in the State. Further, obtaining information from other school districts in Maryland, based on uniform definitions and standards established by State law or regulation, would provide a source of benchmarking data and comparative analysis for MCPS.

CHAPTER X.   AGENCY COMMENTS ON FINAL DRAFT

The Office of Legislative Oversight circulated a final draft of this report to the Chief Operating Officer of Montgomery County Public Schools, the Chief Administrative Officer for Montgomery County, and the Montgomery County Deputy State's Attorney. OLO appreciates the time taken by agency representatives to review the draft report and provide comments. OLO's final report incorporates technical corrections provided by agency staff.

The written comments received from the Chief Operating Officer of Montgomery County Public Schools are attached in their entirety, beginning on the following page.
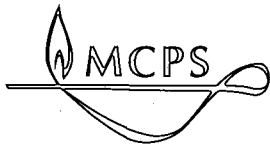
September 14, 2006

Ms. Karen Orlansky, Director
Ms. Leslie Rubin, Legislative Analyst
Office of Legislative Oversight
100 Maryland Avenue
Rockville, Maryland 20850

Dear Ms. Orlansky and Ms. Rubin:

Thank you for providing Montgomery County Public Schools (MCPS) staff with the opportunity to review and comment on the Office of Legislative Oversight (OLO) draft report on MCPS Serious Incident Reporting. Comments and suggestions for technical changes were previously provided to Ms. Rubin. MCPS staff members who participated in this review appreciated the collaborative process that was used by your staff. The information in this report will be helpful as MCPS reviews and modifies its procedures, data collection, and public reporting of serious incidents.

As you know, MCPS staff has been working with representatives of the Montgomery County Police Department and the State's Attorney's Office on a Memorandum of Understanding that is focused on consistent reporting, consistent response from the three agencies, and consistent communication regarding certain types of serious incidents. I anticipate that it will be signed in the near future.

MCPS is implementing a new serious incident information management system which will increase our ability to analyze data, understand the root causes of serious incidents, and implement strategies to ensure that all schools remain safe. The new serious incident information management system will be used to record all school related incidents. We will be able to focus on strategies and resources targeted to reduce the number of incidents, make better use of existing resources, and identify specific needs. Twelve schools were involved in the pilot of this new system last spring. One or two schools from each cluster are implementing the system for the first semester of the current school year. All schools should be implementing the new system by January 2, 2007.

I believe the collaborative work between MCPS and the OLO staff will result in improvements for our schools.   Thank you again for the opportunity to participate in the review process.

Sincerely,

Larry A. Bowers
Chief Operating Officer

LAB:hls

Copy to:
  Dr. Weast