

February 25, 2021

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

Via email

Dear President Biden:

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

Funding Police in Schools Criminalizes and Harms Our Students

Continuing the federal funding of police in schools (including School Resource Officers) funds the criminalization, discrimination, and mental and physical harm of our students.¹ We know that placing police in schools makes it more likely for students in those schools to be suspended, referred to law enforcement, and arrested in school.² These adverse outcomes inevitably lead to more students pulled into the criminal legal system.³ Students who are Black, Brown, Indigenous, LGBTQ, and those with disabilities experience most acutely the impact of school policing.⁴ Research has shown that transgender and nonbinary students experience higher levels of violence and criminalization than their cisgender peers.⁵ Students of color are more likely to attend a school with a police officer, and are more likely to be referred and arrested while at school.⁶ In districts with more Black students, school police are more likely to focus on the students themselves as the threats—in stark contrast to districts with more white students where police are more likely to focus on external

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

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

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

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

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

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

threats.⁷ The racialization of policing in our communities has extended to our schools, and shows no signs of stopping.⁸

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

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

Funding Counselors and Other Mental Health Professionals Supports Our Students

Instead, investment in healthy school climates—where students feel safe and valued—makes schools safer. This investment is made through the placement of school-based mental health personnel who use trauma-informed practices, transformative justice, and

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

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

⁹ *Cops and No Counselors* at 25.

¹⁰ *Id.* at 30.

¹¹ U.S. Department of Justice, Office of Community Oriented Policing Services, “2020 COPS Office School Violence Prevention Program” (Sept. 2020), https://cops.usdoj.gov/pdf/2020AwardDocs/svpp/Post_Award_FactSheet.pdf.

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

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

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

We recognize the steps your Administration has already taken to address racial equity and criminal legal reform, and we respectfully urge you to act now to consider the inequities in our schools and the criminalization of our youth. While these asks are part of the *Counseling Not Criminalization in Schools Act of 2020 (H.R. 7848/S. 4360)*—introduced in the last Congress and supported by 233 organizations¹⁹—we collectively urge you to use the tools of the presidency to take the immediate action that our nation’s students deserve. We applaud that you have already committed to doubling the number of school-based mental health professionals through your education platform.²⁰ We challenge you to repurpose your proposed \$300 million investment in the COPS Office to hire those mental health professionals instead of placing more police in our communities, and to support community-owned and community-driven safety strategies that are police-free and center the leadership of community residents and students in schools.²¹ We urge you to listen to the

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

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

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

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

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

¹⁸ *Cops and No Counselors* at 22.

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

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

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

data, the evidence, and our students in eliminating federal support of police in schools. With a new commitment to divert this federal funding to fund the placement of more mental health professionals in our schools, your administration would display leadership in recognizing our students and communities' calls for safer schools where our students can feel supported and thrive.

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

Sincerely,

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

Dignity in Schools Campaign
Disability Rights Education & Defense Fund
Disability Rights Pennsylvania
Disability Rights Wisconsin
Drug Policy Alliance
East Bay Community Law Center
Education Law Center
Education Law Center-PA
EveryBlackGirl, Inc
Family Equality
Family Network on Disabilities
Family Voices NJ
Fannie Lou Hamer Center for Change
FIRST
First Focus Campaign for Children
Foodlink Inc.
Framingham Families for Racial Equity in Education (FFREE)
Freedom Action Now, Inc.
Freedom, Inc.
Fund for Community Reparations for Autistic People of Color's Interdependence, Survival,
and Empowerment
Futures Without Violence
Genders & Sexualities Alliance Network
Girls for Gender Equity
Girls Inc.
GLSEN
GO-HIGH CORP
Goodkids Madcity Englewood
Greenfield Racial Justice
Gwinnett SToPP
Hmong American Women's Association, Inc.
Howard Brown Health
Human Rights Campaign
IBW-ACTION
IDRA (Intercultural Development Research Association)
Illinois Families for Public Schools
Interfaith Action for Human Rights
Justice Strategies
Juvenile Justice Coalition
Juvenile Law Center
Lawyers for Good Government (L4GG)
Lawyers' Committee for Civil Rights - San Francisco
Lawyers' Committee for Civil Rights Under Law
League of Women Voters of the United States
Legal Action Center
Legal Aid Justice Center
Massachusetts Advocates for Children
Metcalfe Park Community Bridges, Inc
MN Parent Union
MomsRising
Montgomery County Civil Rights Coalition

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

The Sentencing Project
THRIVE Center
UnidosUS
Virginia Council on LGBTQ+
Voices for Vermont's Children
Vote Huntsville
Washington Lawyers' Committee for Civil Rights & Urban Affairs
Worcester Interfaith
Youth Justice Education Clinic, Loyola Law School
Youth on Board
Youth, Rights & Justice
YWCA USA

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