



Education Rights  
Counsel



Nebraska Indian  
Education Association



Urban League  
of **Nebraska**  
Young Professionals

July 15, 2020

Lincoln Public Schools  
Attn: Dr. Steve Joel  
P.O. Box 82889  
Lincoln, NE 68502

***Re: Support to Terminate School Police Programs and Reinvest in Supportive Evidence-Based Resources***

Dear Superintendent,

The below signatories write to you with a firm commitment to challenging the “school-to-prison pipeline,” a disturbing national trend wherein children are funneled out of public schools and into the juvenile and criminal justice systems. Many of these children have learning disabilities or histories of poverty, abuse, or neglect, and would benefit from additional educational and counseling services, but instead, they are isolated, punished, and pushed out.

We believe that children should be educated, not incarcerated. We are working to challenge numerous policies and practices within public school systems and the juvenile justice system that contribute to the school-to-prison pipeline. **Accordingly, we urge you to eliminate the school police program and remove police from your school district.** Providing counselors and mental health professionals is the more effective approach to school safety.

In the wake of the brutal murder of George Floyd by the Minneapolis Police Department, and in response to the local, national and international demands for justice by ending anti-Black racism and policing practices, many school boards have decided to end school police programs. In eliminating these programs, you will be joining a growing list of school districts—from Minneapolis to Portland to Denver to Pomona—that are eliminating school police to achieve

authentic student well-being, safety, and equity.<sup>1</sup> School districts across the nation are recognizing that policing students in schools continues a legacy of mass incarceration and psychological warfare rooted in anti-Black racism and ableism. Rather than spending thousands of dollars on police officers, school districts are recognizing they must invest in resources for its students to access a quality education, like school counselors and mental health services that keep students in school.

We support the elimination of these programs and the reinvestment in restorative justice and mental health professionals. We believe police should *only* enter schools to address public safety threats. Moreover, schools should clearly delineate matters which are subject to school discipline or school police involvement for more appropriate, child-driven responses to challenging behavior. While adding police officers to schools may be well-intentioned, educators and policymakers are overlooking the harmful and disparate educational impact of harsh discipline and law enforcement referrals and could make counter-productive decisions on how to spend scarce education dollars that will exacerbate the inequity in education.

Because so little is known about the day-to-day practices of school-based police and the rules under which they operate, the ACLU of Nebraska launched open records requests during the summer of 2018 to school districts and law enforcement agencies to learn more about their school police programs. The ACLU's findings and legal and policy concerns regarding the school police program in Nebraska public schools can be found in our December 2018 report: ***From the Classroom to the Courtroom: A Review of Nebraska's School Police Programs.***<sup>2</sup>

Below we outline our joint specific concerns with school police programs:

### **I. School police have a disparate impact on marginalized communities.**

Nationally, Black students are more than twice as likely as their white peers to be arrested at school.<sup>3</sup> And Black and Latinx students are more likely to go to schools that have school police no matter the level of crime in the surrounding neighborhood or misbehavior at the school. Additionally, disabled students make up 12% of students in public schools, but 28% of arrests and referrals to law enforcement.<sup>4</sup> A recent study by Education Week reported that “74[%] of

---

<sup>1</sup> Katie Reilly, 'Police Do Not Belong in Our Schools.' *Students Are Demanding an End to Campus Cops After the Death of George Floyd*, TIME MAGAZINE, (June 5, 2020, 12:26 PM), <https://time.com/5848959/school-contracts-police/>; *Denver Public Schools Officials Consider Getting Rid of School Resource Officers*, CBS DENVER (June 2020), <https://denver.cbslocal.com/video/4579561-denver-public-schools-officials-consider-getting-rid-of-school-resource-officers/>

<sup>2</sup> ROSE GODINEZ & SCOUT RICHTERS, ACLU OF NEBRASKA, *From the Classroom to the Courtroom: A Review of Nebraska's School Police Programs* (Dec. 2018), [https://www.aclunbraska.org/sites/default/files/field\\_documents/acluneschoolpolice\\_0.pdf](https://www.aclunbraska.org/sites/default/files/field_documents/acluneschoolpolice_0.pdf)

<sup>3</sup> U.S. DEP'T OF EDUC., 2015-16 Civil Rights Data Collection: School Climate and Safety Data Highlights on School Climate and Safety in Our Nation's Public Schools, (2018) available at <https://www2.ed.gov/about/offices/list/ocr/docs/school-climate-and-safety.pdf>.

<sup>4</sup> Moriah Balingit, *Racial disparities in school discipline are growing, federal data show*, THE WASHINGTON POST (Apr. 24, 2018, 10:41 PM), [https://www.washingtonpost.com/local/education/racialdisparities-in-school-discipline-are-growing-federal-data-shows/2018/04/24/67b5d2b8-47e4-11e8-827e-190efaf1flee\\_story.html?noredirect=on&utm\\_term=.d5b72ea14e11](https://www.washingtonpost.com/local/education/racialdisparities-in-school-discipline-are-growing-federal-data-shows/2018/04/24/67b5d2b8-47e4-11e8-827e-190efaf1flee_story.html?noredirect=on&utm_term=.d5b72ea14e11).

black high school students attend a school with at least one on-site law enforcement officer, compared with 71[%] of both Hispanic and multiracial high school students, and 65[%] of both Asian and white high school students.”<sup>5</sup>

Unfortunately, it is evident that Nebraska also follows this disturbing trend as students of color and disabled students are disproportionately referred to law enforcement in comparison to their white peers and peers without disabilities. For example, the Lincoln Public School District is made up of 32.9% students of color, yet 70.9% of school-based referrals to law enforcement are students of color.<sup>6</sup> The Omaha Public School District’s student body is 18.2% disabled students with 44.2% of law enforcement referrals being disabled students.<sup>7</sup> It is also apparent from the ACLU’s survey that diverse counties tend to have more school police than counties that are predominantly white.<sup>8</sup> In fact, counties that are 94% or more white account for only 4 of 76 (5%) of school police in the state.<sup>9</sup>

## **II. School-based law enforcement referrals can criminalize everyday disciplinary matters.**

Police should end the practice of arrests for common adolescent behaviors, including but not limited to, disciplinary matters, disturbance offenses, status offenses, and misdemeanors. More and more, school police are considered school staff and are assigned daily authority over students, even in situations that have traditionally been seen as everyday disciplinary matters.

Unfortunately, school districts and law enforcement agencies often fail to understand the ways in which policing in schools is unique. Regardless of whether they are called school police officers, school resource officers, or school safety agents, and whether they carry the same weapons as a regular cop; serve in uniform; are friendly or aggressive; or are unionized; these officers have the power to arrest, detain, interrogate, and issue criminal citations to students.

The ACLU surveyed law enforcement agencies and school districts with school police to discover the reasons students are referred to law enforcement and found that students in policed schools are too often criminalized for behaviors that may be a typical part of adolescent development. Some of the reasons students are referred to school police illustrate how blurry the lines can become when school police criminalize student disciplinary matters. Common youth behavior such as a couple of elementary school brothers cussing and yelling at each other was categorized as a “disturbance or suspicious occurrence.”<sup>10</sup> Another school police incident report

---

<sup>5</sup> Evie Blad & Alex Harwin, *Black Students More Likely to be Arrested at School*, EDUCATION WEEK, (Jan. 24, 2017), <https://www.edweek.org/ew/articles/2017/01/25/black-students-more-likely-to-be-arrested.html> (last visited Feb. 13, 2019).

<sup>6</sup> U.S. DEP’T OF EDUC., Civil Rights Data Collection, available at <https://ocrdata.ed.gov/Page?t=d&eid=30736%20&syk=8&pid=2278>

<sup>7</sup> GODINEZ & RICHTERS, *supra* note 2.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

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

categorized an elementary school student's stealing of a candy bar from their teacher's desk as theft.<sup>11</sup>

All in all, when a student's immature or adolescent behavior is addressed by a law enforcement official trained in criminality and arrest, not in getting to the root of a behavioral issue, neither the child nor the school is well served.

### **III. Schools should invest in counselors not cops.**

As long as schools prioritize punishment over treatment and services, at-risk students will be pushed out of schools and onto the path of delinquency. This hurts us all. Too many schools are wrongly investing in security systems and hiring police officers rather than spending these scarce resources on counselors, mental health support, and other services that could enrich students' lives while preparing them for the future. In Nebraska, approximately 4,212 or 1.3% of our Nebraska students are attending a school with a police officer but no counselor.<sup>12</sup>

By investing in school police, educators are unintentionally harming the very children they have a duty to protect. Let's prioritize counselors over cops. School police interactions and referrals can lead to court involvement that can have lifetime effects on students. These school police programs are fraught with direct collateral consequences potentially impacting Nebraska students' job prospects, housing options, civic engagement, voting rights, and educational opportunities for years or a lifetime. Given these high stakes, it is imperative that we do better for our children.

### **IV. School police programs are legally suspect.**

School police programs are legally suspect as school police officers are trained to administer "pain compliance" techniques in their training as law enforcement officers which is in direct contradiction to Nebraska's mandate prohibiting corporal punishment<sup>13</sup>, and is incredibly dangerous to Nebraska children.

Aggressive policing is a threat to the physical and mental health of students, especially for vulnerable communities of color. This is your opportunity to take action to end discriminatory school policing and turn the District away from a long history of disproportionate harmful treatment of Black and disabled students. The time is right to end these failed programs which are antithetical to an educational environment and instead reinvest those resources in mental health family support and educational opportunity.

Thank you for your consideration of this important matter and thank you for your continued commitment to public service. We remain available to answer any questions on these topics and pledge to work with all stakeholders to prevent the funneling of students into the school to prison pipeline.

---

<sup>11</sup> *Id.*

<sup>12</sup> *Race, Discipline, and Safety at U.S. Public Schools*, ACLU, <https://www.aclu.org/issues/juvenile-justice/school-prison-pipeline/race-discipline-and-safety-us-public-schools> (last visited Feb. 13, 2019).

<sup>13</sup> NEB. REV. STAT. § 79-295 (2020).

Sincerely,

ACLU of Nebraska  
Education Rights Counsel  
I Be Black Girl  
Lincoln Branch NAACP  
Nebraska Indian Education Association  
Urban League of Young Professionals  
Voices for Children in Nebraska