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## Three Common-Sense Measures to Limit the School-to-Prison Pipeline in Maryland

John Marinelli

In 2016, a Salisbury, Maryland eighth grader left class without permission and ran through the halls of his middle school.<sup>1</sup> As punishment for his adolescent defiance, the boy was not sent home or suspended but rather pepper-sprayed, handcuffed, and criminally prosecuted.<sup>2</sup>

This episode exhibits the harsh realities of a school-to-prison pipeline that annually funnels thousands of Maryland students into the criminal justice system as a consequence of in-school misbehavior.<sup>3</sup> Criminal interaction of this sort negatively affects children in numerous well-documented, often disastrous ways.<sup>4</sup> To improve these circumstances in Maryland, three contributing factors stand out as ripe for change: the state's disturbing school law, the practice of suspending or expelling students for nonviolent disruptions, and the statewide requirement of school policing.

Each year, several hundred Maryland students experience arrest or referral to law enforcement for the crime of disturbing school<sup>5</sup>—a vague offense that prosecutors have applied to criminalize conduct including a cafeteria scuffle<sup>6</sup> and the episode of defiance described

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<sup>1</sup> See *In re Qoyasha D.*, No. 1053, 2015 WL 5944257, at \*2 (Md. Ct. Spec. App. July 8, 2015).

<sup>2</sup> *Id.*

<sup>3</sup> Maryland students experienced 12,006 school-based arrests during 2015–2019. See Appendix B.

<sup>4</sup> See *infra* notes 49–52 and accompanying text.

<sup>5</sup> See Appendix B (detailing annual disruption arrests of Maryland students from 2015 to 2019).

<sup>6</sup> Primary and Secondary Education—Expansion of Mental Health Services and Prohibition of School Resource Officers (Police-Free Schools Act): Hearing Before the H. Comm. on Ways & Means 2021 Leg. 442nd Sess. (Md. 2021) (Testimony of Aretha Dorsey) (describing the disturbing-school arrest of a high school Sophomore for a thirty-second lunchroom confrontation consisting only of pushing and shoving) [hereinafter Testimony of Aretha Dorsey].

above.<sup>7</sup> The state's public schools also suspend or expel several thousand students for nonviolent disruptions each year.<sup>8</sup> Exclusionary punishments of this sort increase the likelihood that affected students will eventually collide with the criminal justice system.<sup>9</sup> Both these factors—disturbing school arrests and exclusionary discipline—disproportionately affect Maryland's Black students.<sup>10</sup> State law further requires that police regularly patrol all public-school districts,<sup>11</sup> and this practice increases the likelihood that students will be arrested or referred to law enforcement for in-school misconduct.<sup>12</sup> It is not clear whether any of these practices meaningfully improve school safety.<sup>13</sup> However, all of them contribute to the school-to-prison pipeline.

To reduce the effects of these factors, this comment proposes three state-level policy changes. Part I of this piece reviews empirical evidence to describe how the criminalization of classroom disruptions, exclusionary discipline, and school policing contribute to the school-to-prison pipeline. Part II analyzes the prevalence and racially discriminatory impact of these practices in Maryland, and Part III describes recent efforts made at reform. Part IV incorporates examples from around the country to propose three policy changes that may begin to curb Maryland's school-to-prison pipeline and its disproportionate impact on Black students.

## I. THE SCHOOL-TO-PRISON PIPELINE

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<sup>7</sup> In re Qoyasha D., 2015 WL 5944257, at \*2.

<sup>8</sup> See Appendix C (detailing annual exclusionary punishments in Maryland, as well as annual exclusionary punishments imposed for nonviolent disruptions).

<sup>9</sup> See *infra* notes 29–32 and accompanying text.

<sup>10</sup> See *infra* notes 72–73 and accompanying text for a discussion of how disruption arrests disproportionately affect Black students in Maryland and notes 81–83 and accompanying text for a discussion of how exclusionary discipline disproportionately affects Black students. See also Appendix B (identifying demographic details of school-based arrests, and school-based arrests for disruption); Appendix C (identifying demographic details of all exclusions, and exclusions imposed for nonviolent disruption).

<sup>11</sup> MD. CODE ANN., EDUC. § 7-1508(e)(2) (West 2020).

<sup>12</sup> See *infra* notes 33–37 and accompanying text.

<sup>13</sup> See *infra* notes 50–52 and accompanying text for a discussion of how arrests, including disturbing-school arrests, increase recidivism and criminal behavior. See *infra* note 32 and accompanying text for a discussion of how exclusionary discipline does not improve student behavior. See *infra* notes 38–30 and accompanying text for a discussion of how school policing shows unclear benefits to school safety.

The “school-to-prison pipeline” refers to the intersecting disciplinary and juvenile justice policies that together impose criminal consequences for children’s behavior at school.<sup>14</sup> The criminalization of school disruptions,<sup>15</sup> exclusionary discipline,<sup>16</sup> and school policing all contribute to this phenomenon.<sup>17</sup> Each of these practices typically affects Black students in particular.<sup>18</sup> And it is not clear that any of them meaningfully contribute to school safety.<sup>19</sup> Arrest and incarceration—the ultimate destination of the school-to-prison pipeline—have well-documented, long-lasting negative effects on children.<sup>20</sup>

### A. Practices

The criminalization of classroom disruptions, exclusionary discipline, and school policing all contribute to the school-to-prison pipeline. Many jurisdictions maintain laws that directly impose criminal consequences for classroom disruptions.<sup>21</sup> Exclusionary discipline also indirectly makes it more likely that affected students will eventually interact with the justice system.<sup>22</sup> And, the presence of police on a school campus is associated with an increased likelihood that students at that school will be arrested or referred to law enforcement for school-based misbehavior.<sup>23</sup> Empirical research yields unclear results as to whether these practices improve school safety.<sup>24</sup>

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<sup>14</sup> See, e.g., Jason P. Nance, *Students, Police, and the School-to-Prison Pipeline*, 93 WASH. U. L. REV. 919, 923 (2016) (“The term ‘school-to-prison pipeline’ connotes the intersection of the K-12 public education system and law enforcement, and the trend of referring students directly to law enforcement for committing offenses at school or creating conditions that increase the probability of students eventually becoming incarcerated, such as suspending or expelling them.”).

<sup>15</sup> See *infra* notes 25–28 and accompanying text.

<sup>16</sup> See *infra* notes 29–32 and accompanying text.

<sup>17</sup> See *infra* notes 33–37 and accompanying text.

<sup>18</sup> See *infra* notes 43–48 and accompanying text.

<sup>19</sup> See *infra* notes 50–52 and accompanying text for a discussion of how arrests, including disturbing-school arrests, increase recidivism and criminal behavior. See *infra* note 32 and accompanying text for a discussion of how exclusionary discipline does not improve student behavior. See *infra* notes 38–30 and accompanying text for a discussion of how school policing shows unclear benefits to school safety.

<sup>20</sup> See *infra* notes 49–52 and accompanying text.

<sup>21</sup> See *Another Brick in the Wall*, 57 AM. CRIM. L. REV. ONLINE 119, app. (2020) (identifying 20 states that maintain disturbing-school laws).

<sup>22</sup> See *infra* notes 25–28 and accompanying text.

<sup>23</sup> See *infra* notes 29–32 and accompanying text.

<sup>24</sup> See *infra* notes 50–52 and accompanying text for a discussion of how arrests, including

## 1. Criminalization of Classroom Disruption

'Disturbing-school laws' directly criminalize classroom disruption. Approximately 20 states maintain at least one statute that can impose criminal penalties on students who disrupt school,<sup>25</sup> and similar policies exist in many cities.<sup>26</sup> Educators, police, and prosecutors have been known to apply these laws to impose criminal consequences for relatively minor, nonviolent behavior. Students have been prosecuted under these laws for offenses such as getting off a bus too early<sup>27</sup> and repeated fake burping.<sup>28</sup> By criminalizing classroom misbehavior, disturbing-school laws thus create a particularly immediate instrumentality of the school-to-prison pipeline.

## 2. Exclusionary Discipline

The practice of exclusionary discipline—suspensions and expulsions—indirectly fuels the school-to-prison pipeline by increasing the likelihood that affected students will interact with the justice system at some point in their lives.<sup>29</sup> One empirical study found that students

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disturbing-school arrests, increase recidivism and criminal behavior. See *infra* note 32 and accompanying text for a discussion of how exclusionary discipline does not improve student behavior. See *infra* notes 38–30 and accompanying text for a discussion of how school policing shows unclear benefits to school safety.

<sup>25</sup> See *Another Brick in the Wall*, *supra* note 21.

<sup>26</sup> See, e.g., KS. CITY, MO. CODE OF ORDINANCES § 50-170 (2020) ("No person shall . . . intentionally disrupt, disturb or interfere with the teaching of any class of students . . .").

<sup>27</sup> *M.M. v. State*, 997 So.2d 472 (Fla. 2008) (finding violation of Florida's school disturbance law where student got off a bus at the wrong time and disrupted school's transportation schedule).

<sup>28</sup> *A.M. v. Holmes*, 830 F.3d 1123, 1139 (10th Cir. 2016) (upholding disturbing-school arrest of student who interrupted gym class with repeated fake burping).

<sup>29</sup> David M. Ramey, *The Influence of Early School Punishment and Therapy/Medication on Social Control Experiences During young Adulthood*, 54 *CRIMINOLOGY: AN INTERDISC. J.* 113, 113 (2016) ("[S]chool punishment is associated with greater odds of involvement in the criminal justice system . . ."); Kathryn C. Monahan, et al., *From the School Yard to the Squad Car: School Discipline, Truancy, and Arrest*, 43 *J. YOUTH & ADOLESCENCE* 1110, 1110 (2014) ("Being suspended or expelled from school increased the likelihood of arrest in the same month . . ."). TONY FABELO, ET AL., *BREAKING SCHOOLS' RULES: A STATEWIDE STUDY OF HOW SCHOOL DISCIPLINE RELATES TO STUDENTS' SUCCESS AND JUVENILE JUSTICE INVOLVEMENT* 61 (2011) [hereinafter *BREAKING SCHOOLS' RULES*] ("Students who were suspended or expelled [in middle school] had a greater likelihood of contact with the juvenile justice system in their middle or high school years, particularly when

who are suspended or expelled in middle school are more likely to eventually interact with the justice system than students who have not experienced such punishments.<sup>30</sup> Another study found exclusionary discipline to be associated with an increased likelihood of arrest within the same month.<sup>31</sup> And further study shows that removals do not reduce disruptive behaviors.<sup>32</sup> Exclusionary discipline thus contributes to the school-to-prison pipeline without clear benefits to student conduct or school safety.

### 3. School Policing

School policing also indirectly fuels the school-to-prison pipeline. Multiple studies have suggested that the regular presence of law enforcement at a school increases the likelihood that the students at that school will experience criminal consequences for on-campus misbehavior.<sup>33</sup> This effect likely occurs as school officers gradually become involved in a greater proportion of school-disciplinary proceedings at

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they were disciplined multiple times"); Virginia Costenbader & Samia Markson, *School Suspension: A Study with Secondary School Students*, 36 *J. SCH. PSYCHOL.* 59, 74 (1998) (presenting empirical finding that "students who have been suspended . . . are more likely to be involved with the legal system than are classmates who have not been suspended").

<sup>30</sup> *BREAKING SCHOOLS RULES*, *supra* note 29 at 61.

<sup>31</sup> Monahan et al., *supra* note 29.

<sup>32</sup> Russell J. Skiba, *The Failure of Zero Tolerance*, 22 *RECLAIMING CHILD. & YOUTH* 27, 29 (2014) ("No data exists to show that out-of-school suspensions and expulsions reduce disruption or improve school climate.").

<sup>33</sup> Lucy C. Sorensen et al., *The Thin Blue Line in Schools: New Evidence on School-Based Policing Across the U.S.* 2 (Annenberg Inst. Brown Univ., Working Paper No.21-476) (2021) ("We . . . find that [school police] intensify . . . police referrals and arrests of students."); Denise C. Gottfredson et al., *Effects of School Resource Officers on School Crime and Responses to School Crime*, 19 *CRIMINOLOGY & PUB. POL'Y* 905, 905 (2020) ("[I]ncreased [school resource officers] increased the number of drug and weapon related offenses . . ."); Emily M. Homer & Benjamin W. Fisher, *Police in Schools and Student Arrest Races Across the United States: Examining Differences by Race Ethnicity and Gender*, 19 *J. SCH. VIOLENCE* 192 (2020) ("[T]he association between police presence and arrest rates was stronger for all the groups examined in schools with police . . ."); Emily G. Owens, *Testing the School-to-Prison Pipeline*, 36 *J. POL'Y ANALYSIS & MGMT.* 11 (2016) ("[Law enforcement agencies learn about more crimes in schools upon receipt of a grant [to hire school police officers], and are more likely to make arrests for those crimes."); Chongmin Na & Denise C. Gottfredson, *Police Officers in Schools: Effects on School Crime and the Processing of Offending Behaviors*, 30 *JUST. QUART.* 619 (2013) ("[A]s schools increase their use of police, they . . . report a higher percentage of their non-serious violent crimes to law enforcement.").

the schools where they are stationed.<sup>34</sup> Researchers have observed this phenomenon even in studies that control for other factors, such as crime rates in a surrounding neighborhood and demographic variables among students.<sup>35</sup> School police also increase educators' reliance on exclusionary discipline,<sup>36</sup> which, as described above, is associated with an increased likelihood that affected students will eventually interact with the justice system.<sup>37</sup>

These negative effects come with unclear benefits to school safety. Two empirical studies have found that, while school police increase rates of arrest on the campuses they patrol, they also reduce the incidence of some serious offenses.<sup>38</sup> However, a third study found no evidence that school police improve school safety at all.<sup>39</sup> Of further note

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<sup>34</sup> F. Chris Curran et al., *Why and When Do School Resource Officers Engage in School Discipline? The Role of Context in Shaping Disciplinary Involvement*, 126 *AM. J. EDUC.* 33, 33 (2019) ("We find the majority [of school police] involve themselves in [school discipline] in nuanced ways that are shaped by relationships with school staff, official policies, and the characteristics of students served."). This study includes an example to illustrate this phenomenon: After an incident in which police intervened with a student who refused to leave a teacher's classroom, one officer told researchers, "[t]he next step [is] . . . I'm probably going to take him into custody for 'unruly juvenile' . . ." *Id.* This episode shows how police become involved in disciplinary issues and impose criminal consequences for ordinary misbehavior.

<sup>35</sup> Nance, *supra* note 14 at 927 ("[E]ven after controlling for (1) state statutes that require schools to report certain incidents to law enforcement, (2) general levels of criminal activity and disorder that occur at the school, (3) neighborhood crime, and (4) other demographic variables, a police officer's regular presence at a school is predictive of greater odds that school officials refer students to law enforcement for various offenses, including seemingly minor offenses.").

<sup>36</sup> Sorensen et al., *supra* note 33 ("We . . . find that [school police] intensify the use of suspensions [and] expulsions . . ."); Gottfredson et al., *supra* note 33 ("[I]ncreased [school police] increased . . . exclusionary discipline actions . . ."); Emily K. Weisburst, *Patrolling Public Schools: the Impact of Funding for School Police on Student Discipline and Long-term Education Outcomes*, 38 *J. POL'Y ANALYSIS AND MGMT.* 338, 338 (2019) ("Exploiting detailed data on over 2.5 million students in Texas, I find that federal grants for police in schools increase middle school discipline rates by 6 percent."); Benjamin W. Fisher & Emily A. Hennessy, *School Resource Officers and Exclusionary Discipline in U.S. High Schools: A Systematic Review and Meta-Analysis*, 1 *ADOLESCENT RSCH. REV.* 217, 217 (2016) ("[T]he presence of [police] in high schools [is] associated with higher rates of exclusionary discipline.").

<sup>37</sup> See *supra* note 29–32 and accompanying text.

<sup>38</sup> Sorensen et al., *supra* note 33 ("We find that [school police] effectively reduce some forms of violence in schools . . ."); Owens, *supra* note 33 ("I . . . also find evidence that [school police] increase school safety . . .").

<sup>39</sup> Kenneth Alonzo Anderson, *Policing and Middle Schools: An Evaluation of a Statewide School Resource Officer Policy*, 4 *MIDDLE GRADES REV.* 1 (explaining that a study of 110 school districts and 471 middle schools found no reduction in serious incidents when schools implemented police programming).

## 1] Three Common Sense Measures

is the fact that between 1999 and 2018, school police stopped only *one* of approximately 200 school shootings nationwide, even though approximately 68 such incidents occurred at schools with a regular law enforcement presence.<sup>40</sup>

Moreover, since 2009, the Advancement Project has documented more than 60 incidents of police violence at schools,<sup>41</sup> and law enforcement officers have harmed students during encounters arising from infractions such as wearing a hat indoors and texting in class.<sup>42</sup> School policing thus contributes to the school-to-prison pipeline, but research conflicts as to whether the practice makes students safer.

### B. Disparate Racial Impact

Black students disproportionately experience the effects of these practices. Rates of exclusionary discipline<sup>43</sup> and school-based arrest among Black students exceed those of their peers from other racial backgrounds.<sup>44</sup> In 2015–16, for example, Black males represented 8% of the U.S. student population but experienced 25% of suspensions.<sup>45</sup> Students of color are also more likely to have police in their schools than are white students.<sup>46</sup> And, when police patrol schools, rates of

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<sup>40</sup> John W. Cox & Steven Rich, Scarred by school shootings, WASH. POST (Mar. 25, 2018), <https://www.washingtonpost.com/graphics/2018/local/us-school-shootings-history/> (finding that school police stopped only 1 of 197 documented school shootings, even though they regularly patrolled 68 of the schools where shootings occurred).

<sup>41</sup> ADVANCEMENT PROJECT, WE CAME TO LEARN: A CALL TO ACTION FOR POLICE-FREE SCHOOLS 69–73 (2018), <https://advancementproject.org/wecametolearn/> [hereinafter WE CAME TO LEARN].

<sup>42</sup> *Id.*

<sup>43</sup> U.S. DEP'T OF EDUC., OFF. FOR C.R., 2015–16 CIVIL RIGHTS DATA COLLECTION: SCHOOL CLIMATE AND SAFETY 13 (2018), <https://www2.ed.gov/about/offices/list/ocr/docs/school-climate-and-safety.pdf> (showing that while Black boys represented 8% of national enrollment in 2015–16, they represented 25% of suspensions, and while Black girls also represented 8% of enrollment, they experienced 14% of suspensions).

<sup>44</sup> *Id.* at 3 (showing that Black students represented sixteen percent of students nationwide but thirty-one percent of students arrests and referrals to law enforcement).

<sup>45</sup> *Id.* at 13.

<sup>46</sup> Constance A. Lindsay et al., The prevalence of police officers in US schools, URB. INST.: URB. WIRE (June 21, 2018), <https://www.urban.org/urban-wire/prevalence-police-officers-us-schools>.

(“Students attending high schools that have substantial shares of black or Hispanic students attend schools with police officers at higher rates than students attending schools with few black and Hispanic students.”); K. Irwin, et al., The Race to Punish in American Schools: Class and Race Predictors of Punitive School-Crime Control, 21 CRITICAL CRIMINOLOGY, 47, 47 (2013) (finding that school police are more likely to be placed in schools with a higher proportion of



arrest and exclusionary discipline increase *more* for Black students than for white students.<sup>47</sup> These inequities persist despite roughly equal levels of misconduct among all demographics, and do not seem to emerge from economic disparities between racial groups.<sup>48</sup>

### C. Negative Effects

Interaction with the criminal justice system—the ultimate destination of the school-to-prison pipeline—has disastrous consequences for children. Students who experience arrest are more likely to drop out of school,<sup>49</sup> and formal processing into the juvenile justice system is correlated with increased delinquency.<sup>50</sup> Juvenile detention in a punitive facility is associated with increased recidivism, increased likelihood of later interaction with the justice system, exacerbation of mental illness, and a reduction in long-term employment prospects.<sup>51</sup> And, criminal consequences can also heighten violent tendencies in affected children.<sup>52</sup>

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students of color).

<sup>47</sup> Sorensen et al., *supra* note 33 (“We . . . find that [school police] intensify . . . police referrals and arrests of students. These effects are consistently over two times larger for Black students than white students.”); Homer & Fisher, *supra* note 33 (“[T]he association between police presence and arrest rate was stronger for . . . Black students.”).

<sup>48</sup> Russell J. Skiba et al., *Race Is Not Neutral: A National Investigation of African American and Latino Disproportionality in School Discipline*, 40 *SCH. PSYCHOL. REV.* 85, 104 (2011) (“[D]ifferences [in rates of discipline between races] do not appear to be explainable solely by the economic status of those students, nor through a higher rate of disruption for students of color.”).

<sup>49</sup> David S. Kirk & Robert J. Sampson, *Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood*, 86 *SOCIOL. EDUC.* 36, 36 (2013) (“[A]rrest has a substantively large and robust impact on dropping out of high school among . . . public school students”); Gary Sweeten, *Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement*, 23 *JUST. Q.* 462, 463 (2006).

<sup>50</sup> Anthony Petrosino et al., *Formal System Processing of Juveniles: Effects on Delinquency*, *CAMPBELL SYSTEMATIC REV.*, 1, 6 (2010).

<sup>51</sup> *Id.* at 5–10.

<sup>52</sup> Anne M. Hobbs et al., *Assessing Youth Early in the Juvenile Justice System*, 3 *J. JUV. JUST.* 80, 81 (2013) (citing Mark J. Van Ryzin & Thomas J. Dishion, *From Antisocial Behavior to Violence: A Model for the Amplifying Role of Coercive Joining in Adolescent Friendships*, 54 *J. CHILD PSYCHOL. & PSYCHIATRY* 661, 661 (2013)) (“[D]etaining juveniles for relatively low-level offenses . . . reinforce[s] violent attitudes due to association with other high-risk youth.”).

Disturbing-school laws, school policing, and exclusionary discipline are thus all linked to an increased likelihood that affected students—and particularly Black students—will face arrest or referral to law enforcement for in-school misbehavior. Such consequences can have a disastrous impact on children.

## II. MARYLAND CONTEXT

These practices—and their racially disparate impact—all exist in Maryland. A disturbing-school law criminalizes classroom disruption throughout the state,<sup>53</sup> and Maryland public schools frequently impose exclusionary discipline for nonviolent disruptive offenses.<sup>54</sup> State law further requires police coverage of public schools,<sup>55</sup> meaning that each school district in the state has some permanent police presence.<sup>56</sup> Maryland's disturbing-school law and educators' reliance on exclusionary discipline both disproportionately affect Black students.<sup>57</sup> However, the school policing mandate does not seem to result in racially disparate coverage of school districts.<sup>58</sup>

### A. Criminalization of Classroom Disruptions

Maryland directly criminalizes classroom disruption through its disturbing-school statute.<sup>59</sup> While legislators originally conceived of the law to combat large-scale riots,<sup>60</sup> it is today applied to impose

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<sup>53</sup> MD. CODE ANN., EDUC. § 26-101 (West 2019).

<sup>54</sup> See *infra* notes 77–80 and accompanying text. See also Appendix C (detailing annual rates of exclusionary discipline in Maryland).

<sup>55</sup> MD. CODE ANN., EDUC. § 7-1508(e)(2).

<sup>56</sup> See Appendix D (detailing the number of police officers permanently stationed at each public school district in Maryland).

<sup>57</sup> See *infra* notes 72–73 and accompanying text for a discussion of how disruption arrests disproportionately affect Black students in Maryland and notes 81–83 and accompanying text for a discussion of how exclusionary discipline disproportionately affects Black students. See also Appendix B (identifying demographic details of school-based arrests and school-based arrests for disruption) and Appendix C (identifying demographic details of all exclusions and exclusions imposed for nonviolent disruption).

<sup>58</sup> See *infra* notes 99–102 for a discussion of how Maryland's school-policing mandate does not seem to result in more intensive policing of schools with larger proportions of Black students.

<sup>59</sup> MD. CODE ANN., EDUC. § 26-101 (West 2019).

<sup>60</sup> See *In re Jason W.*, 837 A.2d 168, 173 (“The focus in . . . 1977, was on riots and organized

criminal consequences for far less intense misbehaviors.<sup>61</sup> Black students also disproportionately experience arrests or referrals to law enforcement for violations of this law.<sup>62</sup>

Maryland's disturbing-school statute provides that "[a] person may not willfully disturb or otherwise willfully prevent the orderly conduct of the activities, administration, or classes of any institution of elementary, secondary, or higher education."<sup>63</sup> Lawmakers originally passed the current form of the statute in response to large-scale campus disruptions in the mid-20th century,<sup>64</sup> including a clash of approximately 60 students at a Prince George's County school,<sup>65</sup> and another episode involving 'roving gangs' of students who destroyed property in Baltimore.<sup>66</sup> More recently, however, the law has been applied to impose criminal consequences for less intense disruptions, such as minor scuffles,<sup>67</sup> and episodes of defiance.<sup>68</sup>

For this reason, the law today affects students across the state. In the four school years between 2015 and 2019,<sup>69</sup> Maryland students experienced 1,366 arrests for disruption.<sup>70</sup> The disturbing-school law thus accounts for approximately 11% of all school-based arrests over that period.<sup>71</sup>

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demonstrations and disturbances that actually impeded the schools from carrying out their administrative and educational functions.").

<sup>61</sup> See Testimony of Aretha Dorsey, *supra* note 6; *In re Qoyasha D.*, No. 1053, 2015 WL 5944257, at \*2 (Md. Ct. Spec. App. July 8, 2015).

<sup>62</sup> See *infra* notes 72–73 and accompanying text.

<sup>63</sup> MD. CODE ANN., EDUC. § 26-101.

<sup>64</sup> See *In re Jason W.*, 837 A.2d at 173.

<sup>65</sup> *Id.* at 173 n.3 (citing Lawrence Meyer, Board Acts to Calm Schools, WASH. POST, Feb. 11, 1970, at C5).

<sup>66</sup> *Id.* (citing Student Groups Rip High School, EVENING CAP. (Annapolis) Feb. 12, 1970, at 1).

<sup>67</sup> Testimony of Aretha Dorsey, *supra* note 6.

<sup>68</sup> See *In re Qoyasha D.*, No. 1053, 2015 WL 5944257, at \*2 (Md. Ct. Spec. App. July 8, 2015) (upholding disturbing-school arrest of a middle-school student who left class without permission, ran through the halls of his school, and then refused to accompany school officials to the principal's office).

<sup>69</sup> This dataset begins in 2015 because that is the first year that the state published a comprehensive report on school-based arrest. It concludes in 2019 as that was the last full year in which students attended school in-person before the COVID-19 pandemic necessitated a shift to online learning.

<sup>70</sup> See Appendix B.

<sup>71</sup> Across all school years from 2015 to 2019, students experienced 12,006 school-based arrests; 1,366 of these—or 11%—were for disruption. *Id.*

These arrests disproportionately affect Black students. Though they have comprised 34%–39% of Maryland’s public-school population since 2011,<sup>72</sup> Black students experienced 64% of all disruption arrests between 2015 and 2019.<sup>73</sup> Maryland’s disturbing-school statute thus directly criminalizes school-based misbehavior, results in numerous arrests, and disproportionately affects Black students.

#### A. Exclusionary Discipline

Maryland’s public schools also rely extensively on exclusionary discipline, which, as described above, is associated with an increased likelihood that affected students will eventually interact with the criminal justice system.<sup>74</sup> These removals often reflect minor, nonviolent conduct,<sup>75</sup> and—like disturbing-school arrests—disproportionately affect Black students.<sup>76</sup>

Maryland schools imposed an average of 65,445 suspensions and expulsions each year from 2011 to 2019.<sup>77</sup> State disclosures group the offenses for which students receive exclusionary punishments into categories such as “Dangerous Substances,” “Sex Offenses,” and “Disruption.”<sup>78</sup> The final category—“Disruptions”—includes only nonviolent offenses, such as disrespect, insubordination, harassment, disruption, and inciting disruption.<sup>79</sup> Nonetheless, from 2011 to 2019, educators imposed 40% of all suspensions and expulsions as punishments for offenses in this category.<sup>80</sup> A significant portion of exclusionary punishments in Maryland thus reflect nonviolent disruptions.

These exclusions disproportionately affect Black students. Since 2011, Black students have comprised 34%–39% of the state’s public-

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<sup>72</sup> See Appendix A (detailing Maryland’s public-school enrollment and demographic data since 2011).

<sup>73</sup> From 2015 to 2019, Black students experienced 880 of 1,366 disruption arrests, or 64%. See Appendix B.

<sup>74</sup> See *supra* notes 29–32 and accompanying text.

<sup>75</sup> See *infra* notes 77–80 and accompanying text.

<sup>76</sup> See *infra* notes 72–73 and accompanying text.

<sup>77</sup> See Appendix C (detailing annual exclusionary punishments in school years 2011–19).

<sup>78</sup> See, e.g., MD. STATE. DEP’T. OF EDUC., MARYLAND PUBLIC SCHOOL SUSPENSIONS BY SCHOOL AND MAJOR OFFENSE CATEGORY: OUT-OF-SCHOOL SUSPENSIONS AND EXPULSIONS 2010–11 i (2011) [hereinafter 2011 MD. EXCLUSIONS REPORT].

<sup>79</sup> *Id.*

<sup>80</sup> From 2011 to 2019, students experienced 523,561 exclusions; 207,898 of these—or 40%—were imposed for disruption. See Appendix C.

school population each year.<sup>81</sup> However, from 2011 to 2019, they experienced 63% of all annual removals,<sup>82</sup> and 63% of all removals for offenses in the “Disruption” category.<sup>83</sup>

Maryland schools thus rely extensively on exclusionary discipline and often remove students for nonviolent disruptions. Likewise, Black students experience these exclusionary punishments at a rate disproportionate to their share of the public-school population.

## B. School Policing

Maryland law also requires that police patrol public schools statewide,<sup>84</sup> meaning that all school districts in the state maintain a permanent police presence.<sup>85</sup> However, Maryland districts maintain relatively few permanent officers on a per-student basis.<sup>86</sup> And, school policing does not exhibit the same racial disparities as disturbing school arrests or exclusionary punishments, as there exists little correlation between the concentration of Black students in a school district and the number of police permanently assigned to schools in that district.<sup>87</sup>

The Maryland General Assembly passed the Safe to Learn Act in 2018,<sup>88</sup> shortly after the school shooting in Parkland, Florida, and another shooting in Great Mills, Maryland.<sup>89</sup> Among other school safety reforms, the law requires that school districts throughout the state either assign police officers to their campuses or arrange for “adequate coverage” with a local police department.<sup>90</sup> The statute does not define

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<sup>81</sup> See Appendix A.

<sup>82</sup> Across school years 2011–19, Black students experienced 330,092 of 523,561 removals (i.e., ~63%). See Appendix C.

<sup>83</sup> Across school years 2011–19, Black students experienced 131,262 of 207,898 disruption exclusions (i.e., ~63%). *Id.*

<sup>84</sup> MD. CODE ANN., EDUC. § 7-1508(e)(2) (West 2020).

<sup>85</sup> See Appendix D (detailing the number of police officers permanently stationed at all public-school districts in Maryland).

<sup>86</sup> See *infra* notes 97–98 and accompanying text.

<sup>87</sup> See *infra* notes 99–102 and accompanying text. See also Appendix D (detailing racial demographics of each school district alongside the number of permanently stationed police in each).

<sup>88</sup> MD. CODE ANN., EDUC. § 7-1508(e)(2).

<sup>89</sup> Justin Jouvenal et al., Student gunman dies after Maryland school shooting; two other students injured, WASH. POST (Mar. 20, 2018), [https://www.washingtonpost.com/local/public-safety/maryland-authorities-investigating-shooting-at-high-school/2018/03/20/4deedee-2c39-11e8-8ad6-fbc50284fce8\\_story.html](https://www.washingtonpost.com/local/public-safety/maryland-authorities-investigating-shooting-at-high-school/2018/03/20/4deedee-2c39-11e8-8ad6-fbc50284fce8_story.html).

<sup>90</sup> MD. CODE ANN., EDUC. § 7-1508(e)(2).

“adequate coverage,” but the state’s school safety authority interprets this provision to require, at a minimum, regular campus check-ins by police.<sup>91</sup> Because of this law, each school district in the state maintains some permanent police presence.<sup>92</sup>

School police in Maryland have, on multiple occasions, unnecessarily escalated initially non-violent situations to the point where officers inflicted unjustified violence on students. For example, as described in the introduction to this piece, in 2014, a sheriff’s deputy pepper-sprayed a 14-year-old boy during an incident that began when the child refused to accompany school administrators to the principal’s office.<sup>93</sup> In 2015, an officer struck a middle-school girl with a baton and inflicted injuries that required 10 stitches, in an altercation that began with a verbal dispute.<sup>94</sup> Another officer kicked a student in the ribs when the child refused to go to class on time.<sup>95</sup> And, most recently, in 2021, police handcuffed and berated a 5-year-old kindergartener who wandered away from school.<sup>96</sup> These incidents serve to underscore the point that police presence in schools can lead to students interacting with the criminal justice system (including in ways that lead to direct harm to the students) in ways that seem to be unnecessary, given the nature of the offense.

All that being said, Maryland districts maintain relatively few permanently stationed officers per student. In 2019, school districts throughout the state maintained an average of approximately 6.9 permanent police officers per 10,000 students.<sup>97</sup> For reference, the National Association of School Resource Officers—an organization that trains school police and advocates for the expansion of school policing—calls for a ratio of one permanent officer per 1,000 students.<sup>98</sup>

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<sup>91</sup> Maryland SROs FAQs — and Answers, MD. CTR. FOR SCH. SAFETY (Feb. 8, 2021), <https://news.maryland.gov/mcss/2021/02/08/maryland-sro-faqs-and-answers/>.

<sup>92</sup> See Appendix D.

<sup>93</sup> See *In re Qoyasha D.*, No. 1053, 2015 WL 5944257, at \*2 (Md. Ct. Spec. App. July 8, 2015).

<sup>94</sup> Jayne Miller, *Fight with school police officer injures kids; Parents outraged*, WBALTV 11 (Jan. 30, 2015, 3:06PM), <https://www.wbaltv.com/article/fight-with-school-police-officer-injures-kids-parents-outraged/6876445>.

<sup>95</sup> WE CAME TO LEARN, *supra* note 41 at 71–72.

<sup>96</sup> Caitlynn Peetz, *Body cam footage shows police accosting, handcuffing, screaming at 5-year-old*, BETHESDA BEAT (Mar. 26, 2021), <https://bethesdamagazine.com/bethesda-beat/police-fire/video-body-cam-footage-shows-police-accosting-handcuffing-screaming-at-5-year-old/>.

<sup>97</sup> See Appendix D (comparing school district enrollment and demographics to the number of permanently assigned police officers patrolling each district).

<sup>98</sup> Frequently Asked Questions, NASRO, [nasro.org/faq/](https://nasro.org/faq/) (last visited Mar. 2, 2022).

The school policing mandate also does not seem to result in significant racial disparities. Districts in which the student body is at least 33% Black maintain an average of approximately 6.2 officers per 10,000 students<sup>99</sup>—fewer than the statewide figure of 6.9 officers per 10,000 students.<sup>100</sup> The state’s 10 largest school districts maintain an average of 4.4 officers per 10,000 students.<sup>101</sup> And, the four large school districts with a population of over 33% Black students maintain an average of 4.9 permanent officers per 10,000 students.<sup>102</sup> Thus, there exists little correlation between the proportion of Black students in a school district and the number of police officers permanently stationed at schools in that district.

Maryland’s school policing mandate permanently stations police officers in all school districts throughout the state, which, as described above, can increase the likelihood that students will experience criminal consequences for classroom misbehavior. School police have also engaged in documented episodes of violence against Maryland students. But, the state’s school districts maintain relatively few permanent officers per student. And, unlike other factors that contribute to the school-to-prison pipeline in Maryland, the school policing mandate does not seem to result in racial disparities.

### III. RECENT STATE-LEVEL REFORM EFFORTS

State lawmakers have considered reforms to each of these practices and achieved mixed results. A 2021 bill to amend the state’s disturbing-school law failed in the Maryland Senate.<sup>103</sup> Recent efforts to combat exclusionary discipline have had more success, resulting in increased transparency and investments in less punitive educational

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<sup>99</sup> The Baltimore City, Baltimore County, Charles, Dorchester, Prince George’s, Somerset, and Wicomico school districts all have student populations that are over 33% Black. These districts maintain an average of 6.2 permanently stationed police officers per 10,000 students. See Appendix D.

<sup>100</sup> *Id.*

<sup>101</sup> The Anne Arundel, Baltimore City, Baltimore County, Carroll, Charles, Frederick, Harford, Howard, Montgomery, and Prince George’s school districts are the 10 largest in the state. These school districts maintain an average of 4.4 permanently assigned officers per 10,000 students.

<sup>102</sup> Among the 10 largest school districts in Maryland, the Baltimore County, Prince George’s, Charles, and Baltimore City school districts have a student population that is more than 33% Black. These schools maintain an average of approximately 4.9 permanently assigned police officers. See Appendix D.

<sup>103</sup> See *infra* notes 106–108 and accompanying text.

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methods.<sup>104</sup> However, several efforts to reimagine school policing have recently failed.<sup>105</sup>

### A. Criminalization of Classroom Disruptions

A 2021 attempt to reform Maryland's disturbing-school law failed in the state Senate. That year, Sheila Ruth of the Maryland House of Delegates sponsored legislation that would have exempted students who disrupted classes at their own schools from prosecution under the statute.<sup>106</sup> The bill passed the House of Delegates but ultimately failed in the Senate.<sup>107</sup> While it did not become law, the proposed legislation garnered support from local advocacy groups, such as Baltimore-based Public Justice.<sup>108</sup>

### B. Exclusionary Discipline

Maryland policymakers have experienced some success in confronting educators' reliance on suspension and expulsion. In 2004, the state legislature passed a law requiring any elementary school that reports exclusionary discipline rates above 10% of enrollment to implement restorative practices—educational methods that address misbehavior without threatening punishment.<sup>109</sup> And, after several years of study on the subject,<sup>110</sup> the State Board of Education in 2014 issued regulations regarding suspension length and data collection, among other measures.<sup>111</sup>

In 2017, the Maryland General Assembly established a Commission on the School-to-Prison Pipeline to further study these issues.<sup>112</sup>

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<sup>104</sup> See *infra* notes 109–115 and accompanying text.

<sup>105</sup> See *infra* notes 116–118 and accompanying text.

<sup>106</sup> See H.D. 700, 2021 Leg., 442nd Sess. (Md. 2021).

<sup>107</sup> *Id.*

<sup>108</sup> Report on the 2021 session of the Maryland General Assembly, PUB. JUST. CTR. (May 14, 2021), <https://www.publicjustice.org/en/news/2021-legislative-report/#reimagining-school-safety>.

<sup>109</sup> MD. CODE ANN. EDUC. § 7-304.1 (West 2020).

<sup>110</sup> See MD. STATE DEP'T. EDUC., REP. OF THE MD. STATE BD. OF EDUC., SCHOOL DISCIPLINE & ACADEMIC SUCCESS: RELATED PARTS OF MARYLAND'S EDUCATION REFORM ii (2012), <http://www.marylandpublicschools.org/stateboard/Documents/StudentDiscipline/SchoolDisciplineandAcademicSuccessReport0712.pdf>.

<sup>111</sup> MD. CODE REGS. § 13A.08.01-.08.04 (2020).

<sup>112</sup> See MARYLAND COMMISSION ON THE SCHOOL-TO-PRISON PIPELINE AND RESTORATIVE



In its final report, the Commission criticized “zero-tolerance” exclusionary discipline and recommended restorative practices as an alternative.<sup>113</sup> Legislators have since responded by appropriating funds to train educators in restorative<sup>114</sup> and trauma-informed educational methods.<sup>115</sup> Thus, Maryland policymakers have demonstrated awareness of the issue and taken steps to combat exclusionary discipline throughout the state.

### C. School Policing

Recent efforts to reform school policing in Maryland have not succeeded. In 2021, three school policing bills failed in the Maryland General Assembly. HB 1089—the Police-Free Schools Act—aimed to repeal laws that require school policing, prohibit the establishment of school-specific police forces, and prevent school districts from arranging patrols with local law enforcement.<sup>116</sup> The complimentary HB 496—The Counselors Not Cops Act—proposed using money that currently funds school policing to instead fund mental-health resources.<sup>117</sup> HB 0522 would have left police in schools but required officer training in restorative practices.<sup>118</sup> All three proposals failed.

## III. POLICY PROPOSALS

Considering the enduring prevalence and racially disparate impact of the school-to-prison pipeline in Maryland, I propose the following state-level policy changes. First, Maryland legislators may consider a renewed push to amend the state’s disturbing-school law. Second, policymakers may consider limiting the circumstances under which students may be suspended or expelled. And third, legislators may consider repealing the Safe to Learn Act and allowing school districts to determine police coverage for themselves. Other jurisdictions have successfully implemented similar reforms, and these policy

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PRACTICES: FINAL REPORT AND COLLABORATIVE ACTION PLAN 7 (2018), <https://www.law.umaryland.edu/media/SOL/pdfs/Programs/ADR/STPP%20%20RP%20Commission%20Final%20Report.pdf>.

<sup>113</sup> *Id.*

<sup>114</sup> E.g. H.D. 725, 2019 Leg., 440th Sess. (Md. 2019).

<sup>115</sup> E.g. H.D. 277, 2020 Leg., 441st Sess. (Md. 2020).

<sup>116</sup> See H.D. 1089, 2021 Leg., 442nd Sess. (Md. 2021).

<sup>117</sup> See H.D. 496, 2021 Leg., 441st Sess. (Md. 2021).

<sup>118</sup> See H.D. 522, 2021 Leg., 442nd Sess. (Md. 2021).

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changes provide an incremental pathway toward limiting the impact of the school-to-prison pipeline in Maryland.

#### A. Amend Maryland's Disturbing-School Statute to Exempt Students Misbehaving in Their Own Schools

A renewed push to exempt students misbehaving in their own schools from the state's disturbing school law provides policymakers with an option to limit student arrests and reform a policy that has generated racially discriminatory results.

This amendment has the potential to reduce student arrests across the state. As described above, from 2015 to 2019, Maryland students experienced 1,366 arrests for school disruptions.<sup>119</sup> Often, these arrests result from offenses less dramatic than the riots to which the law originally responded.<sup>120</sup> Likewise, Black students experienced 64% of all disturbing-school arrests during this period,<sup>121</sup> despite comprising less than 40% of the state's public-school students.<sup>122</sup> Criminal interactions of this sort can have serious negative consequences for children, so this proposal provides the opportunity to limit these effects.<sup>123</sup>

Massachusetts, Texas, and South Carolina have all reformed similar laws with positive results. In 2018, Massachusetts passed a law exempting students from arrest for disruptions at their own schools.<sup>124</sup> Together with a package of other criminal reforms, this change contributed to a 43% decline in juvenile arrests and a 17% decrease in juvenile incarceration over a one-year period.<sup>125</sup> Texas legislators in 2013 eliminated the state's misdemeanor offense for disruption of class and prohibited police officers from charging students for such disruptions at their own schools.<sup>126</sup> Following this reform, the number

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<sup>119</sup> See Appendix B.

<sup>120</sup> See *supra* notes 63–68 and accompanying text.

<sup>121</sup> See Appendix B.

<sup>122</sup> See Appendix A.

<sup>123</sup> See *supra* notes 49–52 and accompanying text.

<sup>124</sup> See MASS. GEN. LAWS ANN. ch. 272, § 40 (2019).

<sup>125</sup> Christian M. Wade, Youth arrests plummet in wake of reforms, SALEM NEWS (Jan. 9, 2020), [https://www.salemnews.com/news/local\\_news/youth-arrests-plummet-in-wake-of-reforms/article\\_3d0c518d-06f0-5cb4-ba56-d12427dc1101.html](https://www.salemnews.com/news/local_news/youth-arrests-plummet-in-wake-of-reforms/article_3d0c518d-06f0-5cb4-ba56-d12427dc1101.html) [<https://perma.cc/5SCA-4JUS>] (explaining that “arrests of suspects aged 18 and under dropped 43% between [the passage of the reform] and June 30, 2019” and “first-time commitments to the Department of youth Services declin[ed] 17% during the one-year period”).

<sup>126</sup> See Amanda Ripley, How America Outlawed Adolescence, ATLANTIC (Nov. 2016),

of charges filed against juveniles for minor offenses dropped 61% statewide.<sup>127</sup> And, in 2018, South Carolina similarly amended a disturbing-school statute<sup>128</sup> that, prior to reform, resulted in more than 1000 arrests each year.<sup>129</sup> Measures from across the country thus demonstrate the potential impact of amending Maryland's disturbing school law and provide state legislators with a roadmap to limit the negative and discriminatory impact of arrest on students.

## B. Prohibit Suspensions and Expulsions for Offenses in the "Disruption" Category

A prohibition on suspension and expulsion for offenses in the "Disruption" category provides another option to limit a racially discriminatory practice that contributes to the school-to-prison pipeline.

As identified above, Maryland schools impose approximately 40% of all suspensions and expulsions for offenses in the "Disruption" category,<sup>130</sup> which includes only nonviolent offenses such as disrespect, disruption, and dress-code violations.<sup>131</sup> Black students experience over 60% of these removals,<sup>132</sup> despite comprising less than 40% of the public-school population.<sup>133</sup> Suspensions and expulsions fuel the school-to-prison pipeline by increasing the likelihood that affected students will eventually interact with the criminal justice system.<sup>134</sup> Thus, prohibiting exclusionary discipline for nonviolent offenses in the "Disruption" category can eliminate a significant number of removals that disproportionately affect Black students and increase students' likelihood of criminal interaction.

Such a measure would limit educators' flexibility in responding to student behavior problems. To address concerns on the subject and help prevent serious incidents from happening in the first place, policymakers may invest additional resources in restorative educational

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<https://www.theatlantic.com/magazine/archive/2016/11/how-america-outlawed-adolescence/501149/>.

<sup>127</sup> *Id.*

<sup>128</sup> See S.C. CODE ANN. § 16-17-420 (2017) (current version found at S.C. CODE ANN. § 16-17-420 (2020)).

<sup>129</sup> See Ripley, *supra* note 126.

<sup>130</sup> See Appendix C.

<sup>131</sup> 2011 MD. EXCLUSIONS REPORT, *supra* note 78.

<sup>132</sup> See Appendix C.

<sup>133</sup> See Appendix A.

<sup>134</sup> See *supra* notes 29–32 and accompanying text.

approaches.<sup>135</sup> Doing so may incur costs. But, policymakers must consider any additional expense against the impact of arrest and incarceration on Maryland students.

This proposal reflects aspects of Washington D.C.'s 2018 Fair Access to School Act.<sup>136</sup> The D.C. law prohibited numerous categories of exclusionary discipline for high-school students and banned nearly all suspensions and expulsions for middle-school students.<sup>137</sup> The statute took effect immediately before the COVID-19 pandemic shifted learning online, so District policymakers have not yet assessed its impact.<sup>138</sup> As its effect becomes more clear though, Washington's Fair Access Act may provide a framework for similar efforts in Maryland.

### C. Repeal the Safe to Learn Act and Allow School Districts to Determine School Policing Policies

Repealing the Safe to Learn Act would enable school districts to determine police coverage for themselves and weigh the negative effects of school policing against the programs' popularity and potential benefits.

The negative impact of school policing is well-documented. As articulated above, the presence of law enforcement on a school's campus is associated with an increased likelihood that students will be arrested or referred to law enforcement for school-based misbehavior.<sup>139</sup> School policing may also increase educators' reliance on exclusionary discipline, which can in turn fuel the school-to-prison pipeline.<sup>140</sup> And school police have engaged in documented episodes of violence against Maryland students.<sup>141</sup>

Despite these effects, school policing enjoys significant public support. For example, according to a Prince George's County, Maryland poll, 82% of residents believed school police to be "important" or "very important."<sup>142</sup> And a nationwide survey from March 2021 found

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<sup>135</sup> See supra notes 110–14 and accompanying text for a brief discussion of Maryland's recent efforts to fund these educational methods.

<sup>136</sup> D.C. CODE §38-236.04.

<sup>137</sup> Id.

<sup>138</sup> Id.

<sup>139</sup> See supra notes 33–36 and accompanying text.

<sup>140</sup> See supra note 37 and accompanying text.

<sup>141</sup> See supra notes 93–96 and accompanying text.

<sup>142</sup> MONICA E. GOLDSON, SCHOOL SAFETY & SECURITY REPORT & CHIEF EXECUTIVE OFFICER RECOMMENDATIONS 22 (2021), <https://go.boarddocs.com/mabe/pgcps/Board.nsf/files/BX4VD4802E1E/%24file/CEO%27s>

that a plurality of adults polled—45%—think that police make schools safer.<sup>143</sup>

Furthermore, some empirical studies have suggested that school policing can improve school safety.<sup>144</sup> Maryland also maintains relatively few police officers per student.<sup>145</sup> And, unlike the state’s disturbing-school law and reliance on exclusionary discipline, the Safe to Learn Act’s mandate does not result in racial disparities.<sup>146</sup> School policing thus poses a policy challenge with no clear answers.

Given the challenges inherent to this issue, Maryland school districts differ in how they fulfill the state’s school policing mandate. For example, the Baltimore City district maintains a school-specific police force—the Baltimore City School Police Department—comprising of officers stationed permanently on school campuses.<sup>147</sup> Montgomery County, by contrast, relies on “community engagement officers” who are assigned to patrol the areas around schools but are not physically stationed on campuses.<sup>148</sup> These varying implementation strategies demonstrate that the law currently allows for some local flexibility but also show that localities have different needs regarding school policing. Repealing the Safe to Learn Act would provide districts with additional flexibility and the opportunity to remove police from their campuses if they so choose.

Many cities and districts throughout the country provide models for reimagining school safety. Minneapolis, Denver, Portland, Oakland, Seattle, Milwaukee, San Francisco, and Columbus have all removed law enforcement from their school districts.<sup>149</sup> And several localities, including a district outside of Minneapolis, have replaced

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%20Rec%20School%20Safety%20and%20Security%20Report%2001142021.pdf.

<sup>143</sup> Jamie Ballard, Americans tend to believe police officers make schools safer for students, *YOUGov AM.* (Mar. 9, 2021, 10:00 AM), <https://today.yougov.com/topics/politics/articles-reports/2021/03/09/police-officers-school-safety-poll>.

<sup>144</sup> Sorensen at al., *supra* note 33 (“We find that [school police] effectively reduce some forms of violence in schools . . . .”); Owens *supra* note 33 (“I . . . also find evidence that [school police] increase school safety . . .”).

<sup>145</sup> See *supra* notes 97–98 and accompanying text.

<sup>146</sup> See *supra* notes 99–102 and accompanying text.

<sup>147</sup> School Police, *BALT. CITY. PUB. SCHS.*, <https://www.baltimorecityschools.org/school-police> (last visited Oct. 21, 2020).

<sup>148</sup> Rebecca Tan, For first time in 19 Years, Montgomery County schools set to reopen without police, *WASH. POST* (Aug. 25, 2021, 2:30 PM), [https://www.washingtonpost.com/local/md-politics/montgomery-schools-police-officer-program/2021/08/25/99fe70d2-058b-11ec-a654-900a78538242\\_story.html](https://www.washingtonpost.com/local/md-politics/montgomery-schools-police-officer-program/2021/08/25/99fe70d2-058b-11ec-a654-900a78538242_story.html).

<sup>149</sup> Maya Riser-Kositsky et al., Which Districts Have Cut School Policing Programs?, *EDUCATIONWEEK* (Nov. 18, 2021), <https://www.edweek.org/leadership/which-districts-have>.

police with professionals trained in de-escalation and restorative practices.<sup>150</sup> Repealing the Safe to Learn Act would provide local school districts with the opportunity to follow these examples and reimagine school policing on their own terms.

#### CONCLUSION

Disturbing-school prosecutions, exclusionary discipline, and school policing all contribute to the school-to-prison pipeline in Maryland. Moreover, the state's disturbing-school law and educators' reliance on exclusionary discipline both disproportionately affect Black students. There are no easy solutions to this problem. But, the three policy proposals outlined above provide state legislators with incremental options to improve circumstances for Maryland students. By amending the state's disturbing-school statute, lawmakers can reduce school arrests and target a law with a racially disparate impact. By prohibiting exclusionary punishments for "Disruption" offenses, legislators can reduce racially discriminatory school removals by perhaps as much as 40%. And, by repealing the Safe to Learn Act, legislators can empower school districts to weigh for themselves the costs and benefits of school policing. All these policies have been enacted elsewhere. Often, they work quite well. So, while these measures would not end the school-to-prison pipeline, they might help to limit the impact of arrest and incarceration on Maryland students, and on the state's Black students in particular.

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cut-school-policing-programs/2021/06.

<sup>150</sup> See, e.g., ISD 287's Student Safety Coaches, WILDER RSCH. (June 2020), [https://www.wilder.org/sites/default/files/imports/ISD287\\_StudentSafetyCoaches\\_Summ\\_6-20.pdf](https://www.wilder.org/sites/default/files/imports/ISD287_StudentSafetyCoaches_Summ_6-20.pdf) (detailing the role of "student safety coaches" who have replaced police in a Minnesota school district).

Appendix A: Demographic Enrollment Information (2011–18)

School Year	Total Enrollment	Total Enrollment of Black Students	Percent of Student Population Comprising Black Students
2011–12 <sup>1</sup>	858,600	334,728	39%
2013–14 <sup>2</sup>	881,294	311,454	35%
2015–16 <sup>3</sup>	8983,662	310,664	35%
2017–18 <sup>4</sup>	902,989	308,424	34%

<sup>1</sup> 2011–12 State and National Estimations, U.S. DEP'T OF EDUC., OFF. OF C.R., <https://ocrdata.ed.gov/estimations/2011-2012> (last visited Oct. 20, 2021).  
<sup>2</sup> 2013–14 State and National Estimations, U.S. DEP'T OF EDUC., OFF. OF C.R., <https://ocrdata.ed.gov/estimations/2013-2014> (last visited Oct. 20, 2021).  
<sup>3</sup> 2015–16 State and National Estimations, U.S. DEP'T OF EDUC., OFF. OF C.R., <https://ocrdata.ed.gov/estimations/2015-16> (last visited Oct. 20, 2021).  
<sup>4</sup> 2017–18 State and National Estimations, U.S. DEP'T OF EDUC., OFF. OF C.R., <https://ocrdata.ed.gov/estimations/2017-18> (last visited Oct. 20, 2021).

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Appendix B: School-Based Arrest Data (2015–19)

School Year	Total School-Based Arrests	Total Disruption Arrests	Disruption Arrests of Black Students	Percentage of Arrests Imposed for Disruption	Percentage of Disruption Arrests Imposed on Black Students
2015–16 <sup>1</sup>	2,761.00	251.00	196	9%	78%
2016–17 <sup>2</sup>	2,937.00	408.00	255	14%	63%
2017–18 <sup>3</sup>	3,167.00	447.00	280	14%	63%
2018–19 <sup>4</sup>	3,141.00	260.00	149	8%	57%
Total	12,006	1,366	880	11%	64%

<sup>1</sup> MD. STATE DEP'T OF EDUC., MARYLAND PUBLIC SCHOOLS ARREST DATA 2015–2016 11 (2016).  
<sup>2</sup> MD. STATE DEP'T OF EDUC., MARYLAND PUBLIC SCHOOLS ARREST DATA 2016–2017 13 (2017).  
<sup>3</sup> MD. STATE DEP'T OF EDUC., MARYLAND PUBLIC SCHOOLS ARREST DATA 2017–2018 12 (2018).  
<sup>4</sup> MD. STATE DEP'T OF EDUC., MARYLAND PUBLIC SCHOOLS ARREST DATA 2018–2019 13 (2019).



Appendix C: Exclusionary Discipline Data (2011–19)

School Year	Total Exclusions	Disruption Exclusions	Exclusions of Black Students	Disruption Exclusions of Black Students	Percentage of All Exclusions Imposed for Disruptions	Percentage of All Exclusions Imposed on Black Students	Percentage of Disruption Exclusions Imposed on Black Students
2011–12 <sup>1</sup>	85,372	30,531	53,138	18,355	36%	62%	60%
2012–13 <sup>2</sup>	68,740	31,355	43,464	20,085	46%	63%	64%
2013–14 <sup>3</sup>	60,107	26,346	38,332	16,795	44%	64%	64%
2014–15 <sup>4</sup>	54,177	22,958	35,057	15,096	42%	65%	66%
2015–16 <sup>5</sup>	60,104	22,520	39,410	14,738	37%	66%	65%
2016–17 <sup>6</sup>	63,789	25,090	40,594	16,110	39%	64%	64%
2017–18 <sup>1</sup>	63,664	24,873	39,173	15,425	39%	62%	62%
2018–19 <sup>2</sup>	67,608	24,225	40,924	14,658	36%	61%	61%
Total	523,561	207,898	330,092	131,262	40%	63%	63%

<sup>1</sup> MD. STATE. DEP'T. OF EDUC., MARYLAND PUBLIC SCHOOL SUSPENSIONS BY SCHOOL AND MAJOR OFFENSE CATEGORY: OUT-OF-SCHOOL SUSPENSIONS AND EXCLUSIONS 2011-12 1 (2012).  
<sup>2</sup> MD. STATE. DEP'T. OF EDUC., MARYLAND PUBLIC SCHOOL SUSPENSIONS BY SCHOOL AND MAJOR OFFENSE CATEGORY: OUT-OF-SCHOOL SUSPENSIONS AND EXCLUSIONS 2012-13 1 (2013).  
<sup>3</sup> MD. STATE. DEP'T. OF EDUC., MARYLAND PUBLIC SCHOOL SUSPENSIONS BY SCHOOL AND MAJOR OFFENSE CATEGORY: OUT-OF-SCHOOL SUSPENSIONS AND EXCLUSIONS 2013-14 1 (2014).  
<sup>4</sup> MD. STATE. DEP'T. OF EDUC., MARYLAND PUBLIC SCHOOL SUSPENSIONS BY SCHOOL AND MAJOR OFFENSE CATEGORY: OUT-OF-SCHOOL SUSPENSIONS AND EXCLUSIONS 2014-15 1 (2015).  
<sup>5</sup> MD. STATE. DEP'T. OF EDUC., MARYLAND PUBLIC SCHOOL SUSPENSIONS BY SCHOOL AND MAJOR OFFENSE CATEGORY: OUT-OF-SCHOOL SUSPENSIONS AND EXCLUSIONS 2015-16 1 (2016).  
<sup>6</sup> MD. STATE. DEP'T. OF EDUC., MARYLAND PUBLIC SCHOOL SUSPENSIONS BY SCHOOL AND MAJOR OFFENSE CATEGORY: OUT-OF-SCHOOL SUSPENSIONS AND EXCLUSIONS 2016-17 1 (2017).  
<sup>1</sup> MD. STATE. DEP'T. OF EDUC., MARYLAND PUBLIC SCHOOL SUSPENSIONS BY SCHOOL AND MAJOR OFFENSE CATEGORY: OUT-OF-SCHOOL SUSPENSIONS AND EXCLUSIONS 2017-18 1 (2018).  
<sup>2</sup> MD. STATE. DEP'T. OF EDUC., MARYLAND PUBLIC SCHOOL SUSPENSIONS BY SCHOOL AND MAJOR OFFENSE CATEGORY: OUT-OF-SCHOOL SUSPENSIONS AND EXCLUSIONS 2018-19 1 (2019).

Three Common Sense Measures

1]

Appendix D: Permanently Stationed School Police by School District (2019)

County	Student Population <sup>1</sup>	Black Student Population <sup>2</sup>	Percentage of Student Population Black Students	Permanently Assigned SROs <sup>3</sup>	SROs Per 10,000 Students
Allegany	8,437	292	3.5%	5	5.9
Anne Arundel	84,984	17,971	21.1%	30	3.5
Baltimore City	79,187	60,656	76.6%	32	4.0
Baltimore County	115,038	45,392	39.5%	83	7.2
Calvert	16,022	2,030	12.7%	10	6.2
Caroline	5,874	843	14.4%	8	13.6
Carroll	25,345	996	3.9%	15	5.9
Cecil	15,256	1,453	9.5%	12	7.9
Charles	27,521	15,341	55.7%	15	5.5
Dorchester	4,710	1,904	40.4%	2	4.2
Frederick	43,828	5,596	12.8%	16	3.7
Garrett	3,834	10	0.3%	6	15.6
Harford	38,429	7,583	19.7%	22	5.7
Howard	58,868	14,213	24.1%	25	4.2
Kent	1,918	458	23.9%	2	10.4

<sup>1</sup> MD. STATE DEPT OF EDUC., MARYLAND PUBLIC SCHOOL ENROLLMENT BY RACE/ETHNICITY AND GENDER AND NUMBER OF SCHOOLS, SEPTEMBER 30, 2019 1-2 (2019).

<sup>2</sup> *Id.*

<sup>3</sup> MD. CTR. FOR SCH. SAFETY, 2019 ANNUAL SCHOOL RESOURCE OFFICER ADEQUATE COVERAGE REPORT 4-17 (2019).

Montgomery	165,267	35,391	21.4%	26	1.6
Prince George's	135,962	75,003	55.2%	38	2.8
Queen Anne's	7,764	383	4.9%	5	6.4
Saint Mary's	18,083	3,286	18.2%	5	2.8
Somerset	2,905	1,326	45.6%	4	13.8
Talbot	4,703	727	15.5%	3	6.4
Washington	22,993	3,201	13.9%	10	4.3
Wicomico	15,203	5,570	36.6%	9	5.9
Worcester	6,882	1,236	18%	12	17.4