

ACLU-VT Testimony on H. 675  
Senate Judiciary Committee  
April 6, 2018

Thank you for the opportunity to testify on proposed amendments to H. 675.

School shootings and school violence are complex problems that require a thoughtful response. We must address these issues, and the proposed amendment regarding restorative justice principles is a necessary first step towards doing so. We particularly support the emphasis on decreasing the use of exclusionary discipline, ensuring fair discipline policies, and providing students the opportunity to make academic progress while excluded.

When it comes to school safety, however, over policing students is neither effective nor fair to the students. We are particularly concerned about proposals to increase the presence of law enforcement officers in our schools. While intended to protect the student body, these officers are often relied upon to provide routine school discipline. The tools law enforcement uses to combat unruly behavior are often not appropriate in our classrooms, where conflict would be a learning experience, but for the reliance on law enforcement.

While an increased law enforcement presence in schools affects all students and feeds the school to prison pipeline, it is especially hard on youth of color, youth with disabilities, and LGBTQ youth:

- Black students are more than twice as likely as their white peers to be arrested at school. A Government Accountability Office report released just last month shows that black students are disciplined at school more often and more harshly than their white peers, often for similar infractions.<sup>1</sup> Black girls are 2.6 times as likely to be referred to law enforcement on school grounds as white girls and are nearly four times as likely to be arrested at school.<sup>2</sup> Research suggest that these disparities cannot be explained by more frequent or more serious misbehavior by students of color.
- Students with disabilities (with Individualized Education Programs, or IEPs) represent a quarter of students arrested and referred to law enforcement, even though they are only 12% of the national student population.<sup>3</sup> In Vermont, students with disabilities are nearly three times more likely than their peers to be suspended.<sup>4</sup>

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<sup>1</sup> GAO, *Discipline Disparities for Black Students, Boys, and Students with Disabilities* (March 2018), <https://www.gao.gov/assets/700/690828.pdf>.

<sup>2</sup> Monique Morris et al., *Be Her Resource: A Toolkit about School Resource Officers and Girls of Color*, GEORGETOWN LAW CTR. ON POVERTY AND INEQUALITY (Dec. 2017), <http://www.law.georgetown.edu/news/press-releases/upload/be-her-resource.pdf>.

<sup>3</sup> Office for Civil Rights, U.S. Dep't of Education, *Civil Rights Data Collection Data Snapshot: School Discipline* (March 2014), <https://ocrdata.ed.gov/Downloads/CRDC-School-Discipline-Snapshot.pdf>.

<sup>4</sup> See Jay Diaz, Vermont Legal Aid, *Kicked Out! Unfair and Unequal Student Discipline in Vermont's Public Schools* (2015), [https://www.vtlegalaid.org/sites/default/files/Kicked%20Out\\_School%20Discipline%20Report.pdf](https://www.vtlegalaid.org/sites/default/files/Kicked%20Out_School%20Discipline%20Report.pdf).



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- Although LGBTQ youth represent 5 to 7 percent of the nation’s population, they represent 13 to 15 percent of youth in the juvenile justice system.<sup>5</sup>

A police presence in schools may not even make our schools safer. Columbine, Parkland, and Great Mills all had armed personnel on campus, yet all three incidents resulted in tragedy. A 2013 Congressional Research Service report states: “The body of research on the effectiveness of SRO programs is limited, both in terms of the number of studies published and the methodological rigor of the studies conducted. The research that is available draws conflicting conclusions about whether SRO programs are effective at reducing school violence. Also, the research does not address whether SRO programs deter school shootings.”<sup>6</sup> A 2009 study found there was not a large difference in serious crime between schools that had SROs and those that did not. However, students at policed schools were more likely to be arrested than those at unpoliced schools, but were not, in most circumstances, more likely to be actually charged in court. The one exception: students at policed schools were almost five times more likely to be charged with ‘disorderly conduct.’<sup>7</sup>

Ideally, law enforcement should not be a regular or permanent presence on campus. Instead, school staff should be trained to ensure safe and positive school climates and should have the tools to appropriately work with and support struggling students. We should invest in supportive resources like restorative justice and community intervention to build a holistic response to student behavioral needs.

If you decide to increase police presence in our schools, we urge you to create safeguards to ensure our students are not unduly criminalized:

- Clearly define the role of law enforcement officers in schools to ensure they are only focused on imminent threats to student safety, not school discipline. Right now, in 16 V.S.A. § 1167, school boards and law enforcement are only encouraged to enter into memoranda of understanding relating to the nature and scope of assistance that an SRO will provide to the school system. Such memoranda or formal governance documents should be required and should ensure these officers’ mission is centered on imminent threats to students. Without these guidelines, SROs may create an adversarial environment that pushes kids out of school instead of ensuring they remain in a positive educational environment.<sup>8</sup>
- Require annual data reporting and analysis to track school policing trends.

<sup>5</sup> *LGBTQ Youths in the Juvenile Justice System*, OJJDP (Aug. 2014), <https://www.ojjdp.gov/mpg/litreviews/LGBTQYouthsintheJuvenileJusticeSystem.pdf>.

<sup>6</sup> Nathan James and Gail McCallion, *School Resource Officers: Law Enforcement Officers in Schools*, CONGRESSIONAL RESEARCH SERVICE (June 26, 2013), <https://fas.org/sgp/crs/misc/R43126.pdf>.

<sup>7</sup> Matthew T. Theriot, *School resource officers and the criminalization of student behavior*, 37 J. OF CRIMINAL JUSTICE 280-287 (2009), <https://goo.gl/2fybtW>.

<sup>8</sup> The Department of Education in 2016 released Safe School-based Enforcement through Collaboration, Understanding, and Respect (SECURE) rubrics to help policymakers and local schools develop such memoranda and guidelines: <https://www2.ed.gov/policy/gen/guid/school-discipline/files/sro-state-and-local-policy-rubric.pdf>; <https://www2.ed.gov/policy/gen/guid/school-discipline/files/sro-local-implementation-rubric.pdf>. Useful guidelines for such memoranda can also be found here: [https://www.aclu.org/sites/default/files/field\\_document/whitepaper\\_policinginschools.pdf](https://www.aclu.org/sites/default/files/field_document/whitepaper_policinginschools.pdf).



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- Require training for law enforcement working with youth to include youth development and criminality, non-violent conflict resolution, de-escalation techniques, cultural competency and implicit bias and interacting with youth with disabilities.

After every school shooting, calls to harden our schools ring out. This gut reaction to protect our kids is natural. But our youth, and especially teens, are shaped by their environments and experiences. Let's protect their schools as learning centers, not prisons. Let's treat our students like our future leaders, not criminal suspects.



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