

September 22, 2016

Mr. Roy L. Austin, Jr.  
Deputy Assistant to the President for Urban Affairs, Justice & Opportunity  
White House Office of Public Engagement  
Eisenhower Executive Office Building  
1650 Pennsylvania Ave, NW  
Washington, DC 20502

Dear Mr. Austin:

On behalf of the Civil Rights Roundtable, a coalition of over thirty advocacy and research organizations nationwide, we write to thank you for the opportunity to meet on February 26, 2016 with you and White House staff, along with members of the Coalition on Police Reform, and staff from the Departments of Justice and Education. We write to you today because we are deeply concerned by the resource documents issued by the Departments of Justice and Education on September 8, 2016 around the use of School Resource Officers (SROs). Ensuring public safety requires more than resources and non-binding guidance on "best practices."

As we discussed in the February meeting, there is an overuse and misuse of SROs which results in inappropriate and disproportionate discipline and arrest of students with disabilities and/or students of color. We share the concern that the Administration stressed in the recent resource documents that under resourced schools may use SROs to address low-level discipline, rather than addressing the emotional and behavioral needs of students that underlie those minor offenses. And we are concerned that the presence of SROs leads to inappropriately criminalizing student behavior that disproportionately impacts students with disabilities and students of color. This Administration has demonstrated leadership in encouraging the use of evidence based behavioral supports and interventions (EBBSI) <sup>1</sup> to help children heal and to learn alternatives to behavior that results in their removal from school.<sup>2</sup> We fear that allowing SROs to continue to address low level behavior, as this recently released resource will tacitly allow, minimizes the great gains which may be accomplished by the focus on these EBBSI techniques.

We appreciate that the Obama Administration has acknowledged how serious the problem of the inappropriate reliance on SROs has become in some jurisdictions. The Administration's public statements September 8th were important. While we fully agree with the statement that, "...we must ensure that school discipline is being handled by trained educators, not by law enforcement officers,"<sup>3</sup> there needs to be specific and enforceable guidance to address this critical issue.

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<sup>1</sup> These include Positive Behavior Interventions and Supports and other evidenced based techniques.

<sup>2</sup> <http://www2.ed.gov/policy/gen/guid/school-discipline/files/dcl-summary-for-stakeholders.pdf>

<sup>3</sup> U.S. Department of Education Press Release, September 8, 2016 available at <http://www.ed.gov/news/press-releases/obama-administration-releases-resources-schools-colleges-ensure-appropriate-use-school-resource-officers-and-campus-police>

The field needs a more forceful message. For a number of reasons, many school districts are simply not choosing, on their own, to replace SROs with school counselors or to invest in alternative ways to ensure that the school environment feels safe and productive for all members of the community.

The stakes are high and they are not equal. As the testimony of Judge Teske indicates,<sup>4</sup> a police officer's regular presence at a school is predictive that students will be charged with felony offenses for minor school behavior and is also associated with greater racial disparities in discipline. The consequences of involving students in the criminal justice system are severe, especially for specific groups of students (i.e. students of color and/or students with disabilities), and may negatively affect the trajectory of students' lives.<sup>5</sup> Referrals to law enforcement clearly impact some students far more than others.<sup>6</sup>

While we are grateful that the Administration has begun to require reporting in the Civil Rights Data Collection (CRDC) the number of schools with at least one School Law Enforcement Officer (SLEO), we are missing the most critical information on how many officers (including all SROs who are not official enforcement officers) there are for each district. This level of transparency, disaggregated at the school level, is needed to evaluate the level of resources and their impact on school expenditures and on children.

We write today to stress the importance of the Administration addressing three recommendations that are both time sensitive and critical.

### **The Need for Strong Enforceable Guidance**

First, this Administration should direct the Departments of Education and/or Justice to complete a strong, enforceable guidance document regarding the proper role of SROs before the end of President Obama's term of office. When this Administration issued federal discipline guidance in 2014, it was pivotal both in clarifying the civil rights of students and in shifting the discourse on school discipline nationally. We are asking for similar legal guidance addressing the use of SROs, setting an expectation that schools provide EBBSI and counseling to address the social and emotional needs of students, and to create positive learning environments.

Although there is relevant and helpful language in other currently existing documents, including those released on September 8th, none of them constitute strong, enforceable guidance. We firmly believe that widely disseminated official guidance is needed now to prevent long-term, life altering injury to students who are members of specific protected classes.

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<sup>4</sup> See The Honorable Steven C. Teske, Chief Judge, Clayton County Juvenile Court, Georgia, Testimony before the Senate Subcommittee on the Constitution, Civil Rights and Human Rights Subcommittee Hearing on "Ending the School To Prison Pipeline, December 12, 2010. For example, he states, "Upon reviewing our data, the increase in school arrests did not begin until after police were placed on our middle and high school campuses...." (p.71) available at <https://www.gpo.gov/fdsys/pkg/CHRG-112shrg86166/pdf/CHRG-112shrg86166.pdf> See also Flynn and Servoss, *Security Measures and School Discipline in American High Schools*, in CLOSING THE SCHOOL DISCIPLINE GAP, Losen Ed., Teachers College Press (2015)

<sup>5</sup> Nance, Jason P., Students, Police, and the School-to-Prison Pipeline (November 2, 2015). 93 Washington University Law Review 919 (2016); University of Florida Levin College of Law Research Paper No. 15-20. Available at SSRN: <http://ssrn.com/abstract=2577333>

<sup>6</sup> Teske Testimony, at pages 1-2 footnote 4.

Second we know that often schools and districts are not accurately reporting their data on school based arrests and referrals to law enforcement to the public as required by the CRDC.<sup>7</sup> These data are also required elements for state and district report cards now, pursuant to the Every Student Succeeds Act (ESSA). Therefore, we also encourage that future guidance statements make clear that schools and districts have a legal obligation to report this information. Without it, how can the use of SLEOs and SROs be evaluated? Parents and policy makers have a right to this information and there need to be consequences for schools and districts that fail to provide accurate reports as required by OCR, and now pursuant to ESSA.

Third, the Departments of Education and Justice currently have strong enforceable tools available to them to protect the rights of students from protected classes at school. These civil rights laws, when meaningfully and regularly enforced by these departments, are another important way to ensure that all members of a school community, including SLEOs and SROs, treat all students equally. We call on these departments to take full advantage of these tools to protect the rights of children in school.

We are so pleased to have had the opportunity to discuss this important issue with you and look forward to continued collaboration. Please do not hesitate to contact Diane Smith Howard at [diane.smithhoward@ndrn.org](mailto:diane.smithhoward@ndrn.org) with any questions about this letter, or to organize additional meetings to discuss this important topic.

Signed:

Association of University Centers on Disabilities  
Center for Public Representation  
Civil Rights Project at UCLA  
Council of Parent Attorneys and Advocates (COPAA)  
Education Law Center-PA  
Juvenile Law Center  
Juvenile and Special Education Law Clinic, University of the District of Columbia  
NAACP  
National Disability Rights Network  
National Women's Law Center  
Public Interest Law Center  
Schott Foundation  
Southern Poverty Law Center  
Texas Appleseed

C: Rebecca Bond, Chief, Disability Right Section, Civil Rights Division, U.S. Department of Justice

Tanya Clay House, Deputy Assistant Secretary for P-12 Education, Office of Planning, Evaluation and Policy Development, U.S. Department of Education

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<sup>7</sup> See Allison Ross and Matthew Glowicki, *JCPS' 117 student arrests only part of the story*, the Courier-journal, September 3, 2016 available at <http://www.courier-journal.com/story/news/education/2016/09/03/jcps-117-student-arrests-only-part-story/87998298/>

Ronald L. Davis, Director of the Office of Community Oriented Policing Services (COPS Office),  
U.S. Department of Justice

Vanita Gupta, Principal Deputy Assistant Attorney General, U.S. Department of Justice

Catherine Lhamon, Assistant Secretary, Office of Civil Rights, U.S. Department of Education

Roberto Rodriguez, Deputy Assistant to the President for Education, White House Domestic  
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Shaheena Simons, Chief, Educational Opportunities Section, Civil Rights Division, U.S.  
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Sue Swenson, Acting Assistant Secretary, Office of Special Education and Rehabilitative Services,  
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Maria Town, Associate Director for the Office of Public Engagement, the White House