

STUDENTS, THREAT,
RACE, AND POLICE:
AN EMPIRICAL STUDY

JASON P. NANCE AND MICHAEL HEISE*

ABSTRACT

The presence of law enforcement officers in schools is more pronounced today than ever before, altering the educational experiences of students nationwide. Although the benefits of having police in schools are unclear, the legal and policy implications flowing into students' lives are more established. Empirical studies repeatedly have documented a strong connection between regular police contact with schools and the increased rate at which school officials report students to law enforcement for committing various offenses, including lower-level offenses that arguably could be handled internally.

This Article provides the first in-depth empirical study of data spanning a decade that identifies characteristics of schools more likely to have regular contact with law enforcement. Our analyses reveal that a school's sustained contact with law enforcement is not as heavily influenced by the factors one might presume or the normative literature supports, such as actual school disorder and perceived external threats. Instead, our analyses suggest that the primary drivers relate to, in one form or another, perceived internal threats of disruption and violence by the students themselves. Relatedly, and even more troubling, our findings suggest that student race influences decisionmaking. For example, the concentration of African-American students in a school was associated with regular law enforcement contact, even after controlling for school disorder, perceptions of neighborhood crime, school size, and other school characteristics. This finding comports with other empirical studies suggesting that individuals may implicitly associate areas populated with larger concentrations of African Americans with disorder, danger, and crime.

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* Jason P. Nance is Judge James Noel Dean and Professor of Law, SMU Dedman School of Law. Michael Heise is William G. McRoberts Professor in the Empirical Study of Law, Cornell Law School.

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INTRODUCTION

Although uncommon decades ago, law enforcement officers now have a sustained presence in a majority of American public K-12 schools.¹ Not only has the overall number of school law enforcement officers, commonly referred to as school resource officers (SROs),² significantly increased nationwide,³ but so too has the percentage of

1. See *infra* Table 1; see also Denise C. Gottfredson et al., *Effects of School Resource Officers on School Crime and Responses to School Crime*, 19 CRIMINOLOGY & PUB. POL'Y 905, 906-07 (2020).

2. According to the Community Oriented Policing Services (COPS) program and the Safe and Drug-Free Schools and Communities Act, an SRO is a “career law enforcement officer, with sworn authority, deployed in community-oriented policing, and assigned by the employing police department or agency to work in collaboration with schools and community-based organizations.” 34 U.S.C. § 10389(4).

3. See Michael Heise & Jason P. Nance, “Defund the (School) Police”? *Bringing Data to Key School-to-Prison Pipeline Claims*, 111 J. CRIM. L. & CRIMINOLOGY 717, 736 (2021); Jason P. Nance, *Students, Police, and the School-to-Prison Pipeline*, 93 WASH. U. L. REV. 919, 946 (2016).

schools having regular contact with law enforcement.⁴ For example, recent data on school crime and safety in the United States gathered by the U.S. Department of Education indicate that over one-third (roughly 36%) of traditional public schools in the United States had regular contact with law enforcement during the 2009-2010 school year.⁵ During the 2017-2018 school year, the percentage of traditional public schools experiencing regular contact reached over half of all traditional public schools (approximately 54%).⁶

It is not difficult to imagine the primary impetus of this movement, which is to maintain a safe learning environment.⁷ Furthermore, school officials may have been particularly motivated to hire SROs—even pressured by parents and other members of the school community—following each of the high-profile episodes of school violence that have roiled our nation over the last two decades or so, such as the tragedies that occurred in Columbine, Newtown, and Parkland.⁸ But the net benefits attributable to increased contact with law enforcement are far from clear. The available empirical research draws conflicting conclusions regarding the overall efficacy of SRO programs for reducing school violence.⁹

However, the legal and policy implications flowing from schools' decisions to establish partnerships with law enforcement agencies are much more established. The growing police presence in schools is a dynamic that has significantly tightened the intersection between schools and the criminal justice system—a phenomenon more commonly known as the “school-to-prison pipeline”—and can lead to troubling outcomes.¹⁰ For example, as trained law enforcement

4. See *infra* Table 1; Heise & Nance, *supra* note 3, at 736.

5. See *infra* Table 1.

6. *Id.* “Traditional” public schools do not include charter and magnet schools. Our focus on traditional public schools is consistent with parallel empirical work, especially in the area of school finance. See IVY MORGAN & ARY AMERIKANER, THE EDUC. TRUST, FUNDING GAPS 2018: TECHNICAL APPENDIX 1, 3 (2018).

7. See AARON KUPCHIK, HOMEROOM SECURITY: SCHOOL DISCIPLINE IN AN AGE OF FEAR 3 (2010); Daniel P. Mears et al., *The Benefits, Risks, and Challenges of Get-Tough and Support-Oriented Approaches to Improving School Safety*, 30 CRIM. JUST. POL’Y REV. 1342, 1343-44 (2019).

8. See NATHAN JAMES & KYRIE E. DRAGOO, CONG. RSCH. SERV., R45251, SCHOOL RESOURCE OFFICERS: ISSUES FOR CONGRESS 1 (2018).

9. See *id.* at 6-10 (2018) (analyzing the research on whether school resource officer programs reduce school violence and observing that “[t]he research that is available draws conflicting conclusions”); see also Barbara A. Fedders, *The End of School Policing*, 109 CALIF. L. REV. 1443, 1457-59 (2021) (reviewing the research and concluding that the “evidence base for the safety benefits of school policing is weak”).

10. See AARON KUPCHIK, THE REAL SCHOOL SAFETY PROBLEM: THE LONG-TERM CONSEQUENCES OF HARSH SCHOOL PUNISHMENT 31-33 (2016).

officers, some SROs are inclined to treat routine student disciplinary issues as criminal justice matters, resulting in more students becoming involved in the criminal justice system.¹¹

In addition, a sustained police presence may contribute to shifting educators' disciplinary mindsets to a more punitive form.¹² Ethnographic studies reveal that some SROs encourage heightened punishment for students, and school officials and teachers begin to rely on SROs to address disciplinary events that educators themselves may be better suited to handle internally.¹³ Quantitative analyses also document this phenomenon. Several empirical analyses confirm that when law enforcement officers have regular contact with schools, school officials are more likely to refer students to law enforcement agencies for committing various offenses, including lower-level offenses that arguably could be handled in a more pedagogically sound manner.¹⁴ Relatedly, an increased SRO presence is also associated with a school's reliance on exclusionary discipline methods, such as suspensions and expulsions, which also exacerbate the school-to-prison pipeline.¹⁵

Severe negative outcomes often result from involving youth in the criminal justice system.¹⁶ A student who is arrested is less likely to graduate from high school and more likely to be involved in the criminal justice system as an adult, even if the arrest does not lead to a conviction.¹⁷ Incarceration is associated with a host of severe negative outcomes, such as failing to graduate from high school, unemployment, mental health concerns, developing violent behavior and attitudes, and involvement in the criminal justice system as an adult.¹⁸

As stated above, recent data indicate that just over half of our nation's traditional public K-12 schools have regular contact with law enforcement, and just under half do not.¹⁹ Even though a sustained police

11. See Nance, *supra* note 3, at 921-25.

12. See F. Chris Curran et al., *Do Interactions with School Resource Officers Predict Students' Likelihood of Being Disciplined and Feelings of Safety? Mixed-Methods Evidence from Two School Districts*, EDUC. EVALUATION & POL'Y ANALYSIS 200, 202-03 (2021).

13. See KUPCHIK, *supra* note 7, at 94-95; F. Chris Curran, *Arrests of 6-Year-Olds Shows the Perils of Putting Police in Primary Schools*, THE CONVERSATION (Sept. 27, 2019, 7:18 AM), <https://theconversation.com/arrests-of-6-year-olds-shows-the-perils-of-putting-police-in-primary-schools-124229> [<https://perma.cc/8SZZ-57BX>].

14. See Heise & Nance, *supra* note 3, at 755-64; Nance, *supra* note 3, at 967-70.

15. See 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, 229 (2016). Suspensions and expulsions correlate with failing to graduate from high school, increased involvement in criminal activity, more contact with the juvenile justice system, and adult involvement in the criminal justice system. See Jason P. Nance, *Dismantling the School-to-Prison Pipeline: Tools for Change*, 48 ARIZ. ST. L.J. 313, 321-24 (2016).

16. See Nance, *supra* note 15, at 319-24.

17. *Id.* at 321.

18. *Id.* at 319-20.

19. See *supra* notes 1-6 and accompanying text.

presence potentially can have such profound legal and policy implications in students' lives, surprisingly little empirical research has been dedicated to better understanding the types of schools more likely to establish partnerships with law enforcement agencies. Identifying characteristics of schools that predict (and do not predict) regular contact with law enforcement potentially can bring into sharper focus the underlying forces that drive these critical decisions. This is important because some of the underlying forces that influence school officials' decisions to rely on law enforcement might be unfounded and illegitimate. Other underlying forces might be more understandable, but scholars and policymakers could still implement alternative methods to address safety concerns that might lead to better outcomes.

We contribute to the scholarly literature on the school-to-prison pipeline by providing an in-depth empirical analysis that focuses on the characteristics of schools more likely to have regular contact with law enforcement. We also provide a critical longitudinal perspective by analyzing data that spans a decade, uncovering important trends, and identifying characteristics that predict regular contact with law enforcement that have persisted over time.

We exploit data drawn from the U.S. Department of Education's (DOE) School Survey on Crime and Safety (SSOCS), the nation's leading cross-sectional database on public school crime and safety.²⁰ We examine SSOCS data at three junctures that span a decade (SSOCS 2009-2010, SSOCS 2015-2016, and SSOCS 2017-2018).²¹ We also supplement this data with information on district-level per pupil spending and state-level mandatory reporting requirements.²²

Our analyses first suggest that regular contact with law enforcement is not driven primarily by external threats of harm, a factor that the normative literature supports.²³ Specifically, school officials' perceptions of the crime level in the area where their school is located did not emerge as predictive at any point.²⁴ In addition, elementary schools are significantly less likely than upper-level schools to have regular contact with law enforcement.²⁵ Because there is no logical reason to

20. See *infra* Section II.A for a detailed description of the SSOCS data.

21. See *infra* Section II.A.

22. See *infra* Section II.C.1.

23. See, e.g., Matthew J. Cuellar et al., *Dealing with the Day-to-Day: Harnessing School Climate to Address the Effects of Student Victimization on Academic Performance*, PSYCH. SCHS. 1799, 1799 (2021) (explaining how "recent research suggests that parents and principals perceive school shootings as one of the leading threats to school safety and among the most likely hazardous events that would affect safety at school").

24. See *infra* Section III.A.

25. See *infra* Section III.A.

assume that elementary schools are less vulnerable to external threats than secondary schools,²⁶ something other than perceived external threats must be the primary driver of a sustained law enforcement presence in schools.

Instead, our analyses suggest that the primary drivers relate to, in one form or another, perceived (as opposed to actual) internal threats of disruption and violence by students themselves.²⁷ Furthermore, the data indicate that these perceptions may not be reasonable and, in some cases, may be unwarranted. We draw four main conclusions from our statistical findings.²⁸

First, the actual level of disorder existing at a school, measured by the number of student disciplinary incidents schools report over the academic year, did not emerge as statistically significant during any of the three time junctures, suggesting that more immediate threats of harm, danger, and disorder do not appear to influence decisions to facilitate increased contact with law enforcement.²⁹ Second, as indicated above, elementary schools are less likely than secondary schools to have regular contact with law enforcement.³⁰ The reason behind this outcome may be that teachers and school officials feel less threatened by smaller children, as they perceive smaller children to be less likely to engage in serious criminal activity or pose harm.³¹

Third, school size emerges as statistically significant at each of the time junctures.³² Moreover, school size is one of the few variables that exerts an upward influence on the magnitude of SROs/law enforcement's regular presence at a school.³³ Smaller schools are better positioned to foster stronger personal bonds among members of the school community, which can lead to a greater sense of trust and a lower degree of perceived threat.³⁴ Research suggests that smaller learning communities help school officials and teachers address students' needs

26. The tragedy that occurred at Sandy Hook Elementary School in Newtown, Connecticut on December 14, 2012, where twenty children and six educators were shot and killed, is a sober illustration that elementary schools are vulnerable to external threats of violence. See Motoko Rich, *School Officials Look Again at Security Measures Once Dismissed*, N.Y. TIMES (Dec. 18, 2012), <https://www.nytimes.com/2012/12/19/education/after-newtown-shootings-schools-consider-armed-security-officers.html> [<https://perma.cc/Z2H7-Z62Y>].

27. See *infra* Section III.A.

28. See *infra* Section III.A.

29. See *infra* Section III.A.

30. See *supra* note 25 and accompanying text.

31. See NAT'L CTR. FOR EDUC. STAT., U.S. DEPT. OF EDUC., CRIMINAL INCIDENTS RECORDED BY PUBLIC SCHOOLS AND THOSE REPORTED TO SWORN LAW ENFORCEMENT 4 (2022), https://nces.ed.gov/programs/coe/pdf/2022/a06_508.pdf [<https://perma.cc/ESE5-W65V>] (showing that violent crimes are less likely to occur in elementary schools).

32. See *infra* Section III.A.

33. See *infra* Section III.B.

34. See *infra* Section III.A.

in a more personal manner and facilitate development of stronger relationships with students and parents.³⁵ In larger school settings, however, it may be more difficult for school officials and teachers to establish personal relationships with each student and their parents, resulting in a weaker sense of community, greater suspicion of students, and a higher degree of concern for potential disorder and disruption.³⁶ Accordingly, school officials in larger school settings may be more inclined to establish partnerships with law enforcement agencies to help control students and prevent crime.³⁷

The fourth finding related to threat is the most concerning. Our data show that among secondary schools, the concentration of African-American students was a statistically significant predictor of regular contact with law enforcement, even after controlling for actual school disorder, perceptions of neighborhood crime, urbanicity, school size, per pupil spending, and other salient school characteristics.³⁸ This suggests that the race of students alone, at least in the secondary school setting, may have influenced decisions to have a more sustained law enforcement presence in schools. While this is a troubling finding that should be addressed, it is not inconsistent with the racial bias literature.³⁹ Several empirical studies show that individuals, including educators, implicitly and unfairly associate African Americans with disorder, danger, crime, aggression, and violence.⁴⁰ Furthermore, empirical studies suggest that individuals implicitly associate areas populated with larger concentrations of African Americans with danger, crime, and disorder.⁴¹

This Article proceeds in three parts. In Part I, we summarize the relevant research literatures. In Part II, we describe our data, research design, and empirical strategy. In Part III, we present our results, situate our findings in the broader school-to-prison pipeline context, and consider the implications. We also suggest approaches to mitigate against the school-to-prison pipeline based on what we learned from our study and discuss possible next steps to further develop research in this area.

I. LITERATURE REVIEW

The increased presence of law enforcement officers in schools is a key component of a larger movement toward heightened reliance on

35. See U.S. DEPT OF EDUC., AN OVERVIEW OF SMALLER LEARNING COMMUNITIES IN HIGH SCHOOLS 5, 10 (2001) [hereinafter AN OVERVIEW OF SMALLER LEARNING COMMUNITIES].

36. See *infra* Sections III.A, III.C.

37. See *infra* Sections III.A, III.C.

38. See *infra* Part III.

39. See *infra* Sections I.E-F.

40. See *infra* Sections I.E-F.

41. See *infra* Section I.F.

tighter security measures and punitive discipline policies, including the use of exclusionary discipline.⁴² To provide context for our findings, in this Part we discuss the manifestations of this movement, current theories explaining the reasons for its inception and sustainability, its consequences, and the critical role of law enforcement. We also discuss that the harmful consequences of these trends distribute unevenly across student groups. Marginalized student groups have been disproportionately impacted. Finally, we analyze the role that racial bias may play in driving some of these racial inequalities by having undue influence on decisionmaking in certain contexts, including when school officials work in schools populated with high concentrations of African Americans.

A. The Movement Toward Increased Reliance on Criminal Justice-Oriented Security and Exclusionary Discipline

While it was uncommon to observe criminal justice-oriented security measures in schools decades ago, a complete absence of any security measures in a school is uncommon today.⁴³ The increased reliance on security measures even over the last twenty years is remarkable. As we note above and will explain in more detail below, both the percentage of schools that have regular contact with law enforcement and the magnitude of SROs nationwide have increased significantly.⁴⁴ Schools increasingly rely on other types of criminal justice-orientated security measures as well. For example, the percentage of schools that report using security cameras in 2017-2018 was 83%, up from 19% in 1999-2000.⁴⁵ More schools also control access to school buildings by monitoring or locking their doors (74.6% in 1999-2000, 95.4% in 2017-2018), control access to school grounds by monitoring or locking gates (33.7% in 1999-2000, 50.8% in 2017-2018), and conduct “random sweeps for contraband” (11.8% in 1999-2000, 27.8% in 2017-2018).⁴⁶

Lawmakers and school officials also rely much more on exclusionary student discipline policies. We observe this trend on several fronts. For example, federal and state lawmakers have enacted statutes that require schools to report students to law enforcement for engaging in certain activities. In connection with the federal Gun-Free Schools Act,

42. See KUPCHIK, *supra* note 10, at 27-33.

43. See Samantha J. Brown et al., *Education Versus Punishment? Silo Effects and the School-to-Prison Pipeline*, 57 J. RSCH. CRIME & DELINQ. 403, 405-06 (2020).

44. See *infra* Section I.C.

45. See KE WANG ET AL., NAT'L CTR. FOR EDUC. STAT., U.S. DEP'T. OF EDUC., INDICATORS OF SCHOOL CRIME AND SAFETY: 2019, at v (2020).

46. See MELISSA DILBERTI ET AL., NAT'L CTR. FOR EDUC. STAT., U.S. DEP'T OF EDUC., CRIME, VIOLENCE, DISCIPLINE, AND SAFETY IN U.S. PUBLIC SCHOOLS: FINDINGS FROM THE SCHOOL SURVEY ON CRIME AND SAFETY: 2017-2018, at 13 tbl.7 (2019); JILL F. DEVOE ET AL., NAT'L CTR. FOR EDUC. STAT., U.S. DEP'T OF EDUC., INDICATORS OF SCHOOL CRIME AND SAFETY: 2005, at 106 tbl.20.1 (2005).

all school districts that receive federal funds pursuant to the Elementary and Secondary Education Act must have “a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school.”⁴⁷ The majority of states go further by requiring schools to report students for various types of violent and non-violent offenses.⁴⁸ These offenses include violent attacks,⁴⁹ sexual assault,⁵⁰ illegal drug possession,⁵¹ alcohol possession,⁵² vandalism,⁵³ and theft.⁵⁴ In addition, some states require school officials to report students for committing any felony or misdemeanor whatsoever.⁵⁵

Relatedly, at least twenty states have enacted statutes that criminalize acts that disrupt the school environment in some form.⁵⁶ These so-called “disturbing school statutes” have enabled criminal charges to be brought against students engaging in such common adolescent misbehavior as burping in class,⁵⁷ texting and refusing to hand over a cell phone,⁵⁸ using perfume,⁵⁹ throwing a paper airplane,⁶⁰ stealing a beef patty,⁶¹ writing on desks,⁶² and inquiring why another student was being arrested in school.⁶³ Other laws require schools to suspend or expel

47. 20 U.S.C. § 7961(h)(1).

48. See Nance, *supra* note 3, at 934-36.

49. See, e.g., ARK. CODE ANN. § 6-17-113(b)(1) (2022); CAL. EDUC. CODE § 48902(a) (West 2022).

50. See, e.g., FLA. STAT. § 1012.799 (2022).

51. See, e.g., ALA. CODE § 16-1-24.1 (2022); GA. CODE ANN. § 20-2-1184 (2022).

52. See, e.g., IDAHO CODE § 33-210(1) (2022); NEB. REV. STAT. ANN. § 79-267 (West 2022).

53. See, e.g., KY. REV. STAT. ANN. § 158.154 (West 2022); 24 PA. STAT. AND CONS. STAT. § 13-1303-A(b)(4.1) (West 2022).

54. See, e.g., HAW. REV. STAT. ANN. § 302A-1002(1)(B) (West 2022); N.H. REV. STAT. ANN. § 193-D:4(I)(a) (2022).

55. See, e.g., KAN. STAT. ANN. § 72-6143(b)(1) (West 2022); MD. CODE REGS. 13A.08.01.15 (2022).

56. For an extended discussion of these statutes, see Josh Gupta-Kagan, *The School-to-Prison Pipeline's Legal Architecture: Lessons from the Spring Valley Incident and Its Aftermath*, 45 FORDHAM URB. L.J. 83, 102-07 (2017).

57. See *A.M. v. Holmes*, 830 F.3d 1123, 1139 (10th Cir. 2016).

58. *G.M. ex rel. B.M. v. Casalduc*, 982 F. Supp. 2d 1235, 1240 (D.N.M. 2013).

59. Chris McGreal, *The US Schools with Their Own Police*, THE GUARDIAN (Jan. 9, 2012, 3:00 PM), <https://www.theguardian.com/world/2012/jan/09/texas-police-schools> [<https://perma.cc/F79U-V8K9>].

60. *Id.*

61. See Claire Michalewicz, *Mom of Boy Tasered in High School Cafeteria Files Lawsuit*, THE MIDDLETOWN PRESS (June 14, 2011), <https://www.middletownpress.com/news/article/Mom-of-boy-Tasered-in-high-school-cafeteria-files-11868610.php> [<https://perma.cc/WUK7-VZ3L>].

62. See Stephanie Chen, *Girl's Arrest for Doodling Raises Concerns About Zero Tolerance*, CNN (Feb. 18, 2010, 10:22 AM), <http://www.cnn.com/2010/CRIME/02/18/new.york.doodle.arrest/index.html?hpt=C1> [<https://perma.cc/HT29-MH88>].

63. See Michalewicz, *supra* note 61. See Gupta-Kagan, *supra* note 56, at 103-04, for greater detail surrounding these incidents.

students for committing certain acts at school.⁶⁴ In addition, school districts have promulgated their own behavior codes that also require school officials to invoke exclusionary discipline under various circumstances.⁶⁵

Substantial empirical evidence exists documenting that schools are relying more heavily on exclusionary discipline practices than in prior years.⁶⁶ For example, the ratio of students suspended or expelled increased from one in thirteen in 1972-1973 to one in nine in 2009-2010.⁶⁷ During the 2015-2016 school year alone, approximately 2.7 million K-12 students were suspended at least once, 120,850 were expelled, and 290,000 were referred to law enforcement or arrested.⁶⁸

Some schools have relied on a particularly harsh form of exclusionary discipline commonly referred to as “zero tolerance.” Zero tolerance policies require school officials to administer predetermined consequences, such as suspension, expulsion, or a referral to law enforcement, for engaging in certain behavior without considering the surrounding circumstances, harm caused, or other mitigating factors.⁶⁹ Zero tolerance policies originated from the Gun-Free Schools Act of 1994, a statute that requires states receiving federal education funds to enact a law stipulating that school districts will expel students for at least a year for bringing a firearm to school.⁷⁰ Following the passage of the Gun-Free Schools Act, school districts throughout the country created zero tolerance policies to address other areas of misbehavior, including seemingly minor misbehavior.⁷¹ These policies garnered

64. See, e.g., IOWA CODE ANN. § 282.4 (West 2022); 105 ILL. COMP. STAT. ANN. § 5/31-3 (West 2022).

65. See, e.g., CHICAGO PUB. SCHS., STUDENT RIGHTS & RESPONSIBILITIES: 2021-2022, at 11-31 (2021), https://www.dhwpremed.org/pdf/CPS_SRR_2021_brochure_ENG.pdf [<https://perma.cc/US7T-8HV3>]; HOUS. INDEP. SCH. DIST., CODE OF STUDENT CONDUCT: YOUR RIGHTS & RESPONSIBILITIES 14-16 (2020-2021), https://www.houstonisd.org/cms/lib2/TX01001591/Centricity/Domain/636/2020-2021CodeOfConduct_Eng.pdf [<https://perma.cc/MW4L-2BVY>].

66. See Nance, *supra* note 15, at 316-17; Nance, *supra* note 3, at 952-53.

67. See JACOB KANG-BROWN ET AL., VERA INST. JUST., A GENERATION LATER: WHAT WE’VE LEARNED ABOUT ZERO TOLERANCE IN SCHOOLS 2 (2013).

68. See OFF. FOR C.R., U.S. DEP’T OF EDUC., 2015-16 CIVIL RIGHTS DATA COLLECTION: SCHOOL CLIMATE AND SAFETY 3, 13, 15 (2018).

69. See Am. Psych. Ass’n Zero Tolerance Task Force, *Are Zero Tolerance Policies Effective in Schools? An Evidentiary Review and Recommendations*, 63 AM. PSYCH. 852, 852 (2008).

70. See 20 U.S.C. § 7961.

71. See DEREK W. BLACK, ENDING ZERO TOLERANCE: THE CRISIS OF ABSOLUTE SCHOOL DISCIPLINE 3 (2016); CATHERINE Y. KIM ET AL., THE SCHOOL-TO-PRISON PIPELINE: STRUCTURING LEGAL REFORM 79-80 (2010).

considerable national attention and were criticized in the academic literature as being unjust, ineffective, and potentially unconstitutional, and for unnecessarily putting students on a pathway from school to prison.⁷²

B. Theories Explaining the Movement Toward Increased Reliance on Criminal Justice-Oriented Security and Exclusionary Discipline

Scholars propose several related theories explaining the reasons behind the movement toward schools' increased reliance on criminal justice-oriented security and exclusionary discipline. First, scholars observe that this movement proliferated during a larger "tough on crime" movement that emerged in various regions of our country.⁷³ When juvenile violent crime rates rose from the 1980s to 1994, lawmakers shifted from a rehabilitative to a punitive approach to address youth offenders.⁷⁴ Consistent with this trend, some lawmakers and school officials also adopted a punitive approach to address school crime and violence, manifested by intensive surveillance mechanisms and harsh discipline practices.⁷⁵

Second, scholars theorize that this movement was propelled by several highly publicized acts of school violence, such as the atrocities that occurred at Columbine, Sandy Hook, and Parkland.⁷⁶ These horrific events provoked fear and galvanized parents and lawmakers to implement heightened measures to keep children safe at school.⁷⁷ They also put pressure on school officials to demonstrate to various constituencies that schools were taking concrete measures to ensure the safety

72. See Am. Psych. Ass'n Zero Tolerance Task Force, *supra* note 69, at 857; Derek W. Black, *The Constitutional Limit of Zero Tolerance in Schools*, 99 MINN. L. REV. 823, 837-41 (2015).

73. See Brown et al., *supra* note 43, at 404-05; Mears et al., *supra* note 7, at 1344-45.

74. See BARRY C. FELD, *BAD KIDS: RACE AND THE TRANSFORMATION OF THE JUVENILE COURT* 189-90 (1999); PATRICIA TORBET ET AL., *NAT'L CTR. FOR JUV. JUST., STATE RESPONSES TO SERIOUS AND VIOLENT JUVENILE CRIME*, at xi (1996).

75. See KATHLEEN NOLAN, *POLICE IN THE HALLWAYS: DISCIPLINE IN AN URBAN HIGH SCHOOL* 164 (2011); Barbara Fedders, *The Anti-Pipeline Collaborative*, 51 WAKE FOREST L. REV. 565, 567-68 (2016).

76. See, e.g., Curran et al., *supra* note 12; Elizabeth S. Scott, *Miller v. Alabama and the (Past and) Future of Juvenile Crime Regulation*, 31 LAW & INEQ. 535, 541 (2013).

77. See Lynh Bui, *Montgomery County Parents Ask for More School Security, Teacher Training During Budget Hearing*, WASH. POST (Jan. 11, 2013), http://www.washingtonpost.com/blogs/markland-schoolsinsider/post/montgomery-county-parents-ask-for-more-schoolsecurity-teacher-training-during-budget-hearing/2013/01/11/e8d3dcf4-5aab-11e2-9fa9-5fbdc9530eb9_blog.html [<https://perma.cc/3EY3-Y234>]; Rich, *supra* note 26.

of their children.⁷⁸ Criminal justice-oriented security measures and punitive disciplinary policies were visible manifestations that schools could promote to show that they were serious about maintaining a safe, orderly environment.⁷⁹

Third, scholars observe that schools rely on intensive surveillance environments and exclusionary measures because they lack the proper resources to create positive school climates that lead to safe environments.⁸⁰ Many educators are tasked with working with children who suffer from malnourishment, abuse, trauma, poorly structured home environments, and lack of stability at home.⁸¹ They also teach students with significant mental health challenges, learning disabilities, and behavioral disorders.⁸² It is common for youth who struggle to misbehave.⁸³ Schools that lack counselors, behavioral and mental health specialists, appropriate class management training, and other resources often resort to strict, punitive measures in an attempt to control the environment and push misbehaving students out of school.⁸⁴

Fourth, some scholars theorize that pressure to demonstrate student achievement on state standardized tests has motivated some school officials to push low-performing and misbehaving students out of school.⁸⁵ Federal education statutes, such as the now defunct No Child Left Behind Act and the current Every Student Succeeds Act, compel states to administer standardized tests in exchange for federal funding.⁸⁶ If schools fail to meet certain criteria, they risk receiving a negative label or other sanctions, thereby potentially putting school

78. See Randall R. Beger, *The "Worst of Both Worlds": School Security and the Disappearing Fourth Amendment Rights of Students*, 28 CRIM. JUST. REV. 336, 336 (2003); Torin Monahan & Rodolfo D. Torres, *Introduction*, in *SCHOOLS UNDER SURVEILLANCE: CULTURES OF CONTROL IN PUBLIC EDUCATION* 1, 2-3 (Torin Monahan & Rodolfo D. Torres eds., 2009).

79. See KUPCHIK, *supra* note 10, at 28; Fedders, *supra* note 9, at 1463.

80. See Paul J. Hirschfield, *Preparing for Prison? The Criminalization of School Discipline in the USA*, 12 THEORETICAL CRIMINOLOGY 79, 92 (2008); Pedro A. Noguera, *Schools, Prisons, and Social Implications of Punishment: Rethinking Disciplinary Practices*, 42 THEORY INTO PRAC. 341, 343 (2003).

81. See DIANE RAVITCH, *REIGN OF ERROR: THE HOAX OF THE PRIVATIZATION MOVEMENT AND THE DANGER TO AMERICA'S PUBLIC SCHOOLS* 290-91 (2013); Linda Darling-Hammond, *Inequality and School Resources: What It Will Take to Close the Opportunity Gap*, in *CLOSING THE OPPORTUNITY GAP: WHAT AMERICA MUST DO TO GIVE EVERY CHILD AN EVEN CHANCE* 77, 83 (Prudence L. Carter & Kevin G. Welner eds., 2013).

82. See RAVITCH, *supra* note 81, at 290-91; Darling-Hammond, *supra* note 81, at 83.

83. See Noguera, *supra* note 80, at 342, 345.

84. Hirschfield, *supra* note 80, at 92; Noguera, *supra* note 80, at 342, 345.

85. See FED. ADVISORY COMM. ON JUV. JUST., *ANNUAL REPORT 2010*, at 10 (2010); Linda Darling-Hammond, *Race, Inequality, and Educational Accountability: The Irony of 'No Child Left Behind.'* 10 RACE ETHNICITY & EDUC., 245, 252-55 (2007); James E. Ryan, *The Perverse Incentives of the No Child Left Behind Act*, 79 N.Y.U. L. REV. 932, 969-70 (2004).

86. See Jason P. Nance, *Student Surveillance, Racial Inequalities, and Implicit Racial Bias*, 66 EMORY L.J. 765, 781-82 (2017).

officials' jobs at risk.⁸⁷ Scholars worry that some school officials may push lower-performing and disruptive students out of school to avoid having those students' test scores count against the school and so that teachers can more easily prepare less disruptive students to perform well on standardized exams.⁸⁸

Fifth, scholars observe that abundant resources from federal and state governments have fueled an expansion of criminal justice-orientated security measures in schools.⁸⁹ Shortly after each of the high-profile incidents of school violence mentioned above, the U.S. Congress and many state legislatures responded by passing laws appropriating funds to schools for purchasing security measures and hiring law enforcement officers.⁹⁰ For example, following the shootings at Columbine High School, the U.S. Department of Justice's Office of Community Policing Services implemented the "COPS in Schools" grant program.⁹¹ This initiative has provided millions of dollars to schools to hire thousands of SROs throughout the country.⁹² Other federal funding sources include a collaborative effort between the U.S. Departments of Justice, Education, and Health and Human Services, resulting in the "Safe Schools/Healthy Students" program.⁹³ This initiative has funneled more than \$2.1 billion to support several school safety initiatives, including some that fund criminal justice-orientated security measures.⁹⁴ Several states also have passed legislation providing funds to schools for an array of security measures.⁹⁵

87. See Every Student Succeeds Act, Pub. L. No. 114-95, § 1005, 129 Stat. 1802, 1820-52 (2015) (codified as amended at 20 U.S.C. § 6311); see also Michael Heise, *From No Child Left Behind to Every Student Succeeds: Back to a Future for Educational Federalism*, 117 COLUM. L. REV. 1859, 1873 (2017).

88. See Ryan, *supra* note 85, at 696-70; Darling-Hammond, *supra* note 85, at 252-55.

89. See Gottfredson et al., *supra* note 1, at 907-08.

90. *Id.*

91. Chongmin Na & Denise C. Gottfredson, *Police Officers in Schools: Effects on School Crime and the Processing of Offending Behaviors*, 30 JUST. Q. 619, 620-21 (2013).

92. MARIEKE BROCK ET AL., LIBR. OF CONG., SCHOOL SAFETY POLICIES AND PROGRAMS ADMINISTERED BY THE U.S. FEDERAL GOVERNMENT: 1990-2016, at 78, 79, 81 (2017).

93. See Press Release, U.S. Dep't of Educ., U.S. Department of Education Awards More than \$32.8 Million to Promote Safe Schools, Healthy Students (July 10, 2009), <https://www2.ed.gov/news/pressreleases/2009/07/07102009.html> [<https://perma.cc/U7A9-PFXC>]; KELLIE ANDERSON ET AL., NAT'L CTR. FOR MENTAL HEALTH PROM. & YOUTH VIOLENCE PREV., EDUC. DEV. CTR., LAW ENFORCEMENT: SNAPSHOTS FROM THE SAFE SCHOOLS/HEALTHY STUDENTS INITIATIVE 11 (2013).

94. Press Release, U.S. Dep't of Educ., *supra* note 93.

95. See, e.g., ALA. CODE § 41.15B-2.2 (2021) (allocating funding for "[s]afety plans involving the use of metal detectors, other security devices, uniforms, school safety resource officers, or other personnel employed to provide a safe school environment"); 24 PA. STAT. AND CONS. STAT. § 13-1302-A (West 2022) (authorizing grants to cover costs associated with compensating school resource officers).

*C. The Growth of a Sustained Law
Enforcement Presence in Schools*

The increased presence of law enforcement officers in schools is a fundamental component of the larger movement toward heightened reliance on tighter security measures and punitive discipline policies. As a recent Congressional Research Service Report observed, “[s]chool resource officer (SRO) programs have emerged as one of the most popular strategies for increasing school safety.”⁹⁶

There are two types of sworn law enforcement officers that interact with schools. The first is a “school police officer,” which is a law enforcement officer employed by a school district’s police department.⁹⁷ More common in large school districts,⁹⁸ a school district police department serves only the school district, rather than another jurisdiction, and the police chief normally reports to the school district’s superintendent.⁹⁹ The second type is an SRO. An SRO is a law enforcement officer who is “assigned to work at a school on a long-term basis.”¹⁰⁰ SROs are employed by the city police department or sheriff’s office.¹⁰¹ They can be assigned to work in a school full-time or part-time and serve as a conduit between the school and the police department.¹⁰²

Law enforcement officers are now common features in many schools throughout the nation.¹⁰³ It is unclear exactly how many SROs/school police officers exist nationally,¹⁰⁴ but their numbers have grown significantly over the last fifty years. The National Association of School Resource Officers maintains that school-based policing “is the fastest-

96. JAMES & DRAGOO, *supra* note 8, at 1.

97. See Andrea N. Montes et al., *Blurred and Confused: The Paradox of Police in Schools*, 15 POLICING 1546, 1548 (2020); see also JAMES & DRAGOO, *supra* note 8, at 2.

98. See Kalyn Belsha, *Some School Districts Are Cutting Ties with Police. What’s Next?*, CHALKBEAT (June 9, 2020, 4:50 PM), <https://www.chalkbeat.org/2020/6/9/21285709/some-school-districts-are-cutting-ties-with-police-whats-next> [<https://perma.cc/5SA9-YUMM>]; Carolyn Jones, *California School Districts Should Spend Less on Police, More on Counselors, State Leaders Say*, EDSOURCE (June 25, 2020), <https://edsource.org/2020/california-school-districts-should-spend-less-on-police-more-on-counselors-state-leaders-say/634450> [<https://perma.cc/7XZL-NBBK>].

99. See, e.g., TEX. EDUC. CODE ANN. § 37.081(f) (West 2022) (“The chief of police of the school district police department shall be accountable to the superintendent and shall report to the superintendent.”).

100. JAMES & DRAGOO, *supra* note 8, at 2.

101. *Id.*; see also Montes et al., *supra* note 97, at 1548.

102. Montes et al., *supra* note 97, at 1548; see also Gottfredson et al., *supra* note 1, at 906.

103. See KUPCHIK, *supra* note 7, at 14.

104. See *Frequently Asked Questions*, NAT’L ASS’N OF SCH. RES. OFFICERS, <https://www.nasro.org/faq> [<https://perma.cc/A6AD-UDWQ>] (last visited Dec. 31, 2022).

growing area of law enforcement.”¹⁰⁵ For example, in the late 1970s, there were fewer than one hundred SROs.¹⁰⁶ By 2007, however, there were nearly 20,000.¹⁰⁷ More recent estimates place the number of SROs over 30,000.¹⁰⁸

Complementing the rapid growth increase is the percentage of schools that now experience regular contact with law enforcement. Estimates of regular contact derive from the SSOCS datasets. For example, during 2007-2008, the weighted data indicate that a law enforcement officer was present at least once a week in approximately 21% of the sampled schools.¹⁰⁹ Over the next ten years, the percentage of schools reporting regular contact increased markedly. In 2009-2010, roughly 36% of schools reported regular contact; in 2015-2016, approximately 50% reported regular contact; and in 2017-2018, the percentage increased to roughly 54%.¹¹⁰

While the rapid growth trends are clear, the reasons behind the growth are less so. Scholars point to several of the reasons we set forth above as driving forces behind this phenomenon, which include the “tough on crime” mentality in response to rising juvenile crime rates,¹¹¹ highly publicized acts of school violence,¹¹² and the availability of federal and state funds.¹¹³ It is also unclear whether this rapid growth will continue, as some additional forces are now at play. Protests against police departments following the death of George Floyd motivated some school districts to dismantle their school district police departments, sever ties with local police departments, or scale back their partnerships.¹¹⁴ On the other hand, recent highly publicized school shootings in Florida, Texas, and Maryland sparked additional support

105. See *About NASRO*, NAT'L ASS'N OF SCH. RES. OFFICERS, <https://www.nasro.org/main/about-nasro/> [<https://perma.cc/8ZCY-ANK4>] (last visited Dec. 31, 2022).

106. Paul J. Hirschfield & Katarzyna Celinska, *Beyond Fear: Sociological Perspectives on the Criminalization of School Discipline*, 5 SOCIO. COMPASS 1, 1 (2011).

107. See NATHAN JAMES & GAIL MCCALLION, CONG. RSCH. SER., R43126, SCHOOL RESOURCE OFFICERS: LAW ENFORCEMENT OFFICERS IN SCHOOLS 20 (2013).

108. See LUCINDA GRAY ET AL., U.S. DEP'T OF EDUC., PUBLIC SCHOOL SAFETY AND DISCIPLINE: 2013-14, at 11 (2015).

109. See Na & Gottfredson, *supra* note 91, at 632-33.

110. See *infra* Table 1.

111. See Gottfredson et al., *supra* note 1, at 907-08; Mears et al., *supra* note 7, at 1344; Scott Crosse et al., *Are Effects of School Resource Officers Moderated by Student Race and Ethnicity?*, 68 CRIME & DELINQ. 381 (2022).

112. Gottfredson et al., *supra* note 1, at 908; Mears et al., *supra* note 7, at 1344; JAMES & DRAGOO, *supra* note 8, at 1.

113. Gottfredson et al., *supra* note 1, at 908; Samantha Viano et al., *Kindergarten Cop: A Case Study of How a Coalition Between School Districts and Law Enforcement Led to School Resource Officers in Elementary Schools*, 43 EDUC. EVALUATION & POL'Y ANALYSIS 253, 254-55 (2021).

114. See Lauren Camera, *The End of Police in Schools*, US NEWS (June 12, 2020, 6:00 AM), <https://www.usnews.com/news/the-report/articles/2020-06-12/schools-districts-end-contracts-with-police-amid-ongoing-protests> [<https://perma.cc/6TMZ-JZC6>].

for SRO programs.¹¹⁵ Following these shootings, the Florida, Kentucky, and Maryland state legislatures all passed statutes requiring that every school have at least one SRO.¹¹⁶ Following the Santa Fe shooting in Texas, Governor Greg Abbott published a “School and Firearm Safety Action Plan” that resulted in an increased collaboration between schools and law enforcement and a more sustained law enforcement presence in schools.¹¹⁷

The roles and responsibilities of SROs vary considerably from school to school.¹¹⁸ SRO programs are embedded within a decentralized and fragmented American law enforcement apparatus that is composed of various federal, state, and local agencies.¹¹⁹ These agencies report to various constituencies and have varied funding sources and responsibilities.¹²⁰ Scholars conducting observational studies of SRO programs report that SROs engage in a great variety of activities and provide a breadth of services that include providing safety expertise, teaching courses on responsibility and citizenship, and serving as informal counselors and liaisons to community resources.¹²¹ But while SROs’ roles and responsibilities vary, scholars consistently observe that one of their primary responsibilities is law enforcement-related activities, which includes patrolling school grounds, investigating complaints, minimizing disruption, maintaining order, issuing citations, and making arrests.¹²²

Scholars worry that SROs’ law enforcement responsibilities, particularly those related to minimizing disruption and maintaining order, have blurred the lines regarding who is responsible for disciplining students.¹²³ This is because adolescent misbehavior, even routine mis-

115. See Viano et al., *supra* note 113, at 254-55.

116. See FLA. STAT. § 1006.12 (2022); KY. REV. STAT. ANN. § 158.4414 (West 2022); MD. CODE ANN., EDUC. § 7-1508(e)(2) (West 2022).

117. See GOVERNOR GREG ABBOTT, IMPROVING SCHOOL SAFETY IN TEXAS 4, 14 (2019).

118. See JAMES & MCCALLION, *supra* note 107, at 2.

119. See Ben Brown, *Evaluations of School Policing Programs in the USA*, in THE PALGRAVE INTERNATIONAL HANDBOOK OF SCHOOL DISCIPLINE, SURVEILLANCE, AND SOCIAL CONTROL 327, 328-29 (Jo Deakin, Emmeline Taylor & Aaron Kupchik eds., 2018).

120. *Id.* at 329.

121. See F. CHRIS CURRAN ET AL., UNDERSTANDING SCHOOL SAFETY AND THE USE OF SCHOOL RESOURCE OFFICERS IN UNDERSTUDIED SETTINGS 18-22 (2020); KUPCHIK, *supra* note 7, at 82-95; LAWRENCE F. TRAVIS III & JULIE K. COON, THE ROLE OF LAW ENFORCEMENT IN PUBLIC SCHOOL SAFETY: A NATIONAL SURVEY 37-39 (2005).

122. See JAMES & MCCALLION, *supra* note 107, at 2; KUPCHIK, *supra* note 7, at 83-89; Josh Gupta-Kagan, *Reevaluating School Searches Following School-to-Prison Pipeline Reforms*, 87 FORDHAM L. REV. 2013, 2039 (2019); Ethan M. Higgins et al., *School Safety or School Criminalization? The Typical Day of a School Resource Officer in the United States*, 62 BRITISH J. CRIMINOLOGY 568 (2022).

123. See, e.g., Gupta-Kagan, *supra* note 56, at 103; Kerrin C. Wolf, *Assessing Students’ Civil Rights Claims Against School Resource Officers*, 38 PACE L. REV. 215, 222 (2018); Fedders, *supra* note 75, at 573-74; Joseph B. Ryan et al., *The Growing Concerns Regarding School Resource Officers*, 53 INTERVENTION SCH. & CLINIC 188, 188 (2018).

behavior, can almost always be characterized as “disruptive” and “disorderly,” which are conditions law enforcement officers are trained to address.¹²⁴ In addition, SROs have the authority to intervene whenever a student is misbehaving—to enforce a “disturbing school statute” or a number of other statutes that criminalize disturbing the peace, assault, and disorderly conduct.¹²⁵ And while school officials may initiate or agree to establish a partnership with a law enforcement agency, ultimately, SROs are not accountable to the schools.¹²⁶ Rather, SROs report to the police or sheriff’s department that employs them.¹²⁷ Thus, even over the objection of school officials, SROs have the authority to unilaterally transform common adolescent behavior that once was handled internally by school officials into criminal misconduct to be handled by the criminal justice system.¹²⁸

To clarify the roles of both SROs and educators, several states, government agencies, and advocacy groups maintain that schools and law enforcement agencies should create Memorandums of Understanding (MOUs) that specify the misconduct SROs should address and what should be reserved for educators.¹²⁹ Yet it is unclear how many schools with SROs have entered into MOUs or how effectively they prevent SROs from becoming involved in routine disciplinary events.¹³⁰ Moreover, MOUs have been criticized as “weak mechanisms for regulating school police officers” because “they typically contain exceptions establishing that school administrators cannot limit police discretion.”¹³¹

Scholars and government agencies also emphasize the importance of providing systematic training to both SROs and educators to avoid

124. See Na & Gottfredson, *supra* note 91, at 622 (observing that SROs are used extensively to maintain orderly environments).

125. See *supra* notes 56-63 and accompanying text; see also, e.g., CAL. PENAL CODE § 241 (West 2022) (criminalizing assault); FLA. STAT. § 877.03 (2018) (criminalizing acts that breach the peace and disorderly conduct); VA. CODE ANN. § 18.2-415 (2022) (criminalizing disorderly conduct).

126. See Fedders, *supra* note 9, at 1481.

127. *Id.*

128. Ben Brown, *Understanding and Assessing School Police Officers: A Conceptual and Methodological Comment*, 34 J. CRIM. JUST. 591, 591, 596 (2006); see also PETER FINN ET AL., U.S. DEP’T OF JUST., A GUIDE TO DEVELOPING, MAINTAINING, AND SUCCEEDING WITH YOUR SCHOOL RESOURCE OFFICER PROGRAM 51 (2005).

129. See, e.g., IND. CODE ANN. § 20-26-18.2-2 (West 2022); TEX. EDUC. CODE ANN. § 37.0021 (West 2022); MD. CODE ANN., EDUC. § 26-102 (West 2022); U.S. DEP’T OF EDUC., GUIDING PRINCIPLES: A RESOURCE GUIDE FOR IMPROVING SCHOOL CLIMATE AND DISCIPLINE 9-10 (2014) [hereinafter GUIDING PRINCIPLES]; JAMES & MCCALLION, *supra* note 107, at 11.

130. See Barbara Fedders, *The Constant and Expanding Classroom: Surveillance in K-12 Public Schools*, 97 N.C. L. REV. 1673, 1698 (2019) (describing the conflicting roles of MOUs).

131. Fedders, *supra* note 9, at 1497.

students becoming unnecessarily involved in the criminal justice system.¹³² But it is unknown exactly how much training SROs receive before assuming their roles.¹³³ The limited available research suggests that SROs receive little training generally,¹³⁴ particularly in highly important areas such as how to appropriately interact with students with disabilities.¹³⁵

Other scholars observe that the increased presence of law enforcement officers in schools further strains students' already limited constitutional rights.¹³⁶ For example, the U.S. Supreme Court maintains that school officials do not need to obtain a warrant or have probable cause to search a student.¹³⁷ The majority of courts apply this lower standard of review when SROs search students, including in situations where the evidence an SRO obtains is subsequently used to criminally prosecute a student.¹³⁸ Even in jurisdictions that apply the probable cause standard for SRO searches, SROs can evade this higher standard by arranging for school officials to conduct the searches on their own.¹³⁹

Courts also maintain that it is unnecessary for school officials to provide *Miranda* warnings before interrogating a student.¹⁴⁰ Similar to the search context, courts hold that *Miranda* warnings are not required even if school officials relay the evidence they obtain to law enforcement,¹⁴¹ and, in some jurisdictions, when a law enforcement officer is present during the school official's interrogation.¹⁴² Also similar

132. See GUIDING PRINCIPLES, *supra* note 129, at 7-8; PETER FINN & JACK MCDEVITT, NATIONAL ASSESSMENT OF SCHOOL RESOURCE OFFICER PROGRAMS 44 (2005); Shabnam Javdani, *Policing Education: An Empirical Review of the Challenges and Impact of the Work of School Police Officers*, 63 AM. J. CMTY. PSYCH. 253, 260-61 (2019).

133. See Javdani, *supra* note 132, at 260.

134. See Fedders, *supra* note 9, at 1495-96.

135. Javdani, *supra* note 132, at 260-61.

136. See Gupta-Kagan, *supra* note 122, at 2015-18; Nance, *supra* note 3, at 936-40; Catherine Y. Kim, *Policing School Discipline*, 77 BROOK. L. REV. 861, 861-65 (2012); Michael Pinard, *From the Classroom to the Courtroom: Reassessing Fourth Amendment Standards in Public School Searches Involving Law Enforcement Authorities*, 45 ARIZ. L. REV. 1067, 1067-70 (2003).

137. See *New Jersey v. T.L.O.*, 469 U.S. 325, 340-42 (1985).

138. See, e.g., *People v. Dillworth*, 661 N.E.2d 310, 317 (Ill. 1996); *R.D.S. v. State*, 245 S.W.3d 356, 367 (Tenn. 2008); see also Gupta-Kagan, *supra* note 122, at 2024-30.

139. Fedders, *supra* note 9, at 1494.

140. *C.S. v. Couch*, 843 F. Supp. 2d 894, 917-20 (N.D. Ind. 2011); *Boynton v. Casey*, 543 F. Supp. 995, 997 (D. Me. 1982).

141. See *S.E. v. Grant Cnty. Bd. of Educ.*, 544 F.3d 633, 640-41 (6th Cir. 2008).

142. See, e.g., *State v. J.T.D.*, 851 So. 2d 793, 797 (Fla. Dist. Ct. App. 2003); *In re Tateana R.*, 883 N.Y.S.2d 476, 477-78 (App. Div. 2009); *J.D. v. Commonwealth*, 591 S.E.2d 721, 723-25 (Va. Ct. App. 2004).

to the search context, in jurisdictions that require *Miranda* warnings when an SRO is present, SROs can easily circumvent this requirement by alerting school officials to question a student on their own.¹⁴³

*D. The Consequences Associated with
Increased Reliance on Law Enforcement*

Many lawmakers and school officials support SRO programs in an effort to keep students safe.¹⁴⁴ Proponents contend that maintaining a law enforcement presence deters wrongful student behavior not only through surveillance and law enforcement activities, but also when students share threat information with SROs.¹⁴⁵ Proponents further argue that SROs deter school shootings and can serve as first responders if a shooter attacks.¹⁴⁶ The empirical research assessing the efficacy of SRO programs in creating safe learning environments, however, is mixed at best.¹⁴⁷

First, it is unclear whether an increased law enforcement presence effectively deters a school shooting from occurring or minimizes harm once it begins. School shootings are rare, and to date there have been no rigorous empirical studies evaluating whether an SRO presence reduces school shootings or their severity.¹⁴⁸ However, a recent Congressional Research Service Report observed that of the nearly two hundred school shootings that occurred between 1999 and 2018, at least sixty-eight of these schools employed an SRO, including four of the five schools where the “worst rampages” took place.¹⁴⁹ Indeed, during the recent shooting at Parkland, Florida, a law enforcement officer was present at the time and failed to intervene.¹⁵⁰ Furthermore, if a school does not have a full-time SRO, a shooter could attack when the SRO is absent.¹⁵¹

Second, it is unclear whether an increased law enforcement presence effectively deters school crime. Researchers who have examined the available empirical research conclude that the findings related to

143. See Fedders, *supra* note 9, at 1492.

144. See KUPCHIK, *supra* note 10, at 28.

145. See Gottfredson et al., *supra* note 1, at 908.

146. *Id.*

147. See JAMES & DRAGOO, *supra* note 8, at 6-10; Fedders, *supra* note 9, at 1457-60.

148. *Id.* at 6.

149. *Id.* at 10 (citing John Woodrow Cox & Steven Rich, *Scarred by School Shootings: More than 187,000 Students Have Been Exposed to Gun Violence Since Columbine*, WASHINGTON POST (Mar. 25, 2018), <https://www.washingtonpost.com/graphics/2018/local/us-school-shootings-history/> [<https://perma.cc/G69L-WPQ7>]).

150. See Gottfredson et al., *supra* note 1, at 931.

151. JAMES & DRAGOO, *supra* note 8, at 10. We are aware, however, of at least one instance where a school shooter decided to attack an elementary school over a middle school because the middle school had an armed security officer. *Id.*

SRO effectiveness are conflicting.¹⁵² A recent study conducted by Denise Gottfredson and her colleagues is telling. They compared a sample of thirty-three schools that increased SRO staffing levels with a matched sample of seventy-two schools that did not have increases over the same time period.¹⁵³ Examining the disciplinary offenses and actions at eleven and twenty-three months after the increase, they found that when SRO staffing levels increased, weapon- and drug-related offenses rose immediately and persisted twenty months following the increase.¹⁵⁴ They concluded that their study “largely replicated findings from prior research . . . that found that schools whose SROs focused primarily on law enforcement recorded more crimes than non-SRO schools.”¹⁵⁵ They further concluded that it would be “difficult to argue that schools are becoming safer when recorded crimes and exclusionary responses persist for so long after the introduction of SROs.”¹⁵⁶

While the safety benefits associated with an increased law enforcement presence are unclear, the legal and policy implications that emerge when schools establish partnerships with law enforcement agencies are more established. First, as indicated above, an increased law enforcement presence generates increases in student arrests, even for nonviolent offenses.¹⁵⁷ A study conducted by Emily Owens confirmed findings similar to Gottfredson et al.’s study, although Owens pursued a different methodological approach. Owens examined the relationship between the timing and size of federal grants to fund SRO positions and school-based arrest rates for teenagers and young children.¹⁵⁸ Owens discovered that the receipt of federal grants was associated with higher school-based arrest rates not only for violent- and weapon-related offenses, but also for drug/alcohol offenses and property offenses (theft and vandalism).¹⁵⁹ Owens also found that the grants increased the likelihood of school-based arrests and bookings for young adults (fifteen to nineteen years old) for drug/alcohol offenses, arrests of minors (seven to fourteen years old) for property and

152. See KUPCHIK, *supra* note 10, at 27-31; JAMES & DRAGOO, *supra* note 8, at 6-9 (“The research that is available draws conflicting conclusions about whether SRO programs are effective at reducing school violence.”); JAMES & MCCALLION, *supra* note 107, at 8-11 (same); Gottfredson et al., *supra* note 1, at 910-12 (concluding that the available research “fall[s] short of definitively demonstrating the effect of placing SROs on school crime and responses to school crime”); Javdani, *supra* note 132, at 264 (concluding that “the results of studies on the influence of [SROs] on school[] safety, crime, and arrest are consistent with prior reviews in suggesting a null effect on safety and increases in crime and arrest”).

153. Gottfredson et al., *supra* note 1, at 913-15.

154. *Id.* at 923, 930.

155. *Id.* at 927.

156. *Id.* at 930.

157. *See id.*

158. See Emily G. Owens, *Testing the School-to-Prison Pipeline*, 36 J. POL’Y ANALYSIS & MGMT. 11, 13 (2017).

159. *Id.* at 32.

drug/alcohol offenses, and arrests and bookings of minors for property offenses.¹⁶⁰ Other empirical studies, including direct observational studies, report similar outcomes.¹⁶¹

Second, along similar lines, repeated empirical studies reveal the strong connection between a regular law enforcement presence and schools reporting students to law enforcement for committing various offenses, including lower-level offenses.¹⁶² The most recent study we are aware of is our own.¹⁶³ We exploited data from the 2015-2016 SSOCS to investigate the relationship between both the regular presence of law enforcement and the magnitude of SRO/police at school and its rate of reporting disciplinary incidents to law enforcement.¹⁶⁴ We applied three distinct analytical approaches and controlled for various student-focused and school-level variables.¹⁶⁵ We concluded the following:

When it comes to either whether a school reports any student disciplinary incidents to law enforcement agencies or a school's rate [per 100 students] of reporting, we find consistent and robust evidence—and across virtually all of our models—that a school's SRO/police presence exerts an upward influence on schools' inclination to report and rate of reporting.¹⁶⁶

Student involvement in the criminal justice system, of course, leads to an array of negative outcomes.¹⁶⁷ Incarceration limits students' future employment, education, and housing opportunities.¹⁶⁸ Incarcerated youth have inferior access to education and fewer opportunities to acquire skills to obtain suitable employment upon

160. *Id.*

161. *See, e.g.,* KUPCHIK, *supra* note 10, at 32 (“I observed many instances where caring SROs worked hard to define misbehavior as a criminal act so they could make an arrest.”).

162. *See* Heise & Nance, *supra* note 3, at 756; Nance, *supra* note 3, at 969-70; Na & Gottfredson, *supra* note 91, at 635, 637; Matthew T. Theriot, *School Resource Officers and the Criminalization of Student Behavior*, 37 J. CRIM. JUST. 280, 284-85 (2009).

163. *See* Heise & Nance, *supra* note 3.

164. *Id.*

165. *Id.*

166. *Id.* at 771.

167. *See* Nance, *supra* note 3, at 921-25.

168. *See* RIYA SHAH & JEAN STROUT, JUV. L. CTR., FUTURE INTERRUPTED: THE COLLATERAL DAMAGE CAUSED BY PROLIFERATION OF JUVENILE RECORDS 10-11 (2016); BARRY HOLMAN & JASON ZIEDENBERG, JUST. POL'Y INST., THE DANGERS OF DETENTION: THE IMPACT OF INCARCERATING YOUTH IN DETENTION AND OTHER SECURE FACILITIES 9 (2006).

their release.¹⁶⁹ They are more likely to suffer from mental health conditions,¹⁷⁰ develop violent attitudes and behaviors,¹⁷¹ and become involved in the criminal justice system in the future.¹⁷² Arresting a student, even if it does not lead to incarceration, is also associated with unwanted outcomes. A student arrest is connected to trauma, stigma, and expulsion.¹⁷³ It is also strongly associated with failing to graduate from high school.¹⁷⁴ Failing to graduate from high school, unsurprisingly, leads to other undesirable outcomes, such as poverty, unemployment, poor health, and increased involvement in the criminal justice system.¹⁷⁵

Third, a sustained law enforcement presence may harm a school's climate.¹⁷⁶ Scholars observe that a healthy school climate is fundamental to providing robust learning opportunities for children and leads to several positive outcomes, such as higher academic achievement, improved graduation rates, lower rates of absenteeism, fewer substance abuse issues, lower suspension rates, and improved physical and mental health.¹⁷⁷ Several scholars maintain that a law enforcement presence can shift a climate previously characterized as nurturing and rehabilitating to one that is criminal justice-orientated and punitive.¹⁷⁸

169. See HOLMAN & ZIEDENBERG, *supra* note 168, at 2; Peter E. Leone, *Doing Things Differently: Education as a Vehicle for Youth Transformation and Finland as a Model for Juvenile Justice Reform*, in A NEW JUVENILE JUSTICE SYSTEM: TOTAL REFORM FOR A BROKEN SYSTEM 86, 91 (Nancy E. Dowd ed., 2015).

170. See Christopher B. Forrest et al., *The Health Profile of Incarcerated Male Youths*, 105 PEDIATRICS 286, 288-89 (2000); Javid H. Kashani et al., *Depression Among Incarcerated Delinquents*, 3 PSYCHIATRY RSCH. 185, 189-90 (1980).

171. See Anne M. Hobbs et al., *Assessing Youth Early in the Juvenile Justice System*, 3 OJJDP J. JUV. JUST. 80, 81 (2013); Mark J. Van Ryzin & Thomas J. Dishion, *From Antisocial Behavior to Violence: A Model for the Amplifying Role of Coercive Joining in Adolescent Friendship*, 54 J. CHILD PSYCH. & PSYCHIATRY 661, 661 (2013).

172. See ANTHONY PETROSINO ET AL., FORMAL SYSTEM PROCESSING OF JUVENILES: EFFECTS ON DELINQUENCY 25-36 (Campbell Systematic Revs. 2010); Brent B. Benda & Connie L. Tollett, *A Study of Recidivism of Serious and Persistent Offenders Among Adolescents*, 27 J. CRIM. JUST. 111, 113 (1999).

173. See ADVANCEMENT PROJECT, EDUCATION ON LOCKDOWN: THE SCHOOLHOUSE TO JAILHOUSE TRACK 12 (2005); Theriot, *supra* note 162, at 281.

174. See Gary Sweeten, *Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement*, 23 JUST. Q. 462 (2006); Paul Hirschfield, *Another Way Out: The Impact of Juvenile Arrests on High School Dropout*, 82 SOCIO. EDUC. 368 (2009).

175. See JOHN M. BRIDGELAND ET AL., THE SILENT EPIDEMIC: PERSPECTIVES OF HIGH SCHOOL DROPOUTS 2 (2006); HENRY LEVIN ET AL., THE COSTS AND BENEFITS OF AN EXCELLENT EDUCATION FOR ALL OF AMERICA'S CHILDREN 14 (2006).

176. "School climate" refers to "the extent to which a school community creates and maintains a safe school campus; a supportive academic, disciplinary, and physical environment; and respectful, trusting, and caring relationships throughout the school community." GUIDING PRINCIPLES, *supra* note 129, at 5.

177. See Ron Avi Astor et al., *A Call for the Conceptual Integration of Opportunity Structures Within School Safety Research*, 50 SCH. PSYCH. REV. 172 (2021); Cuellar et al., *supra* note 23, at 1801; Amrit Thapa et al., *A Review of School Climate Research*, 83 REV. EDUC. RSCH. 357, 357-60 (2013).

178. See KUPCHIK, *supra* note 7, at 115-16; Astor et al., *supra* note 177.

For example, some SROs press for a heightened disciplinary approach to handling student misbehavior,¹⁷⁹ and school officials and teachers often begin expecting SROs to address disciplinary events in a criminal justice-oriented fashion.¹⁸⁰ Relatedly, empirical studies show that an increased law enforcement presence corresponds to a school's increased reliance on exclusionary disciplinary methods, such as suspension and expulsion.¹⁸¹ After conducting ethnographic observations in multiple schools, Aaron Kupchik provided a sobering summary of how a sustained law enforcement presence can alter the school climate:

Having an officer can escalate disciplinary situations; increase the likelihood that students are arrested at school; redefine situations as criminal justice problems rather than social, psychological, or academic problems; introduce a criminal justice orientation to how to administer, prevent and respond to problems; and socialize students to expect a police presence in their lives.¹⁸²

E. *Racially Disparate Outcomes*

Not all student demographic groups have experienced the increased reliance on law enforcement in the same manner. We first discuss the literature on disparities related to intense surveillance measures and then with respect to exclusionary discipline measures, including referrals to law enforcement and school-based arrests.

1. *Intense Surveillance Measures*

The empirical literature on racial disparities related to the use of criminal justice-oriented security measures is expanding. Aaron Kupchik and Geoff Ward conducted one of the first empirical studies drawing upon 2005-2006 SSOCS data.¹⁸³ They examined the use of specified security measures (surveillance cameras, law enforcement officers, metal detectors, and drug-sniffing dogs) among elementary, middle, and high schools and controlled for various school and student characteristics.¹⁸⁴ They discovered that schools with higher concentrations of racial/ethnic minorities were more likely to rely on metal detectors at the elementary, middle, and high school levels,¹⁸⁵ but a school's racial/ethnic minority concentration was not connected to

179. See KUPCHIK, *supra* note 7, at 94-95; KUPCHIK, *supra* note 10, at 30.

180. See Fedders, *supra* note 9, at 1483.

181. Fisher & Hennessy, *supra* note 15, at 229; Javdani, *supra* note 132, at 263.

182. KUPCHIK, *supra* note 7, at 115. See generally NOLAN, *supra* note 75; VICTOR M. RIOS, PUNISHED: POLICING THE LIVES OF BLACK AND LATINO BOYS (2011).

183. See Aaron Kupchik & Geoff Ward, *Race, Poverty, and Exclusionary School Security: An Empirical Analysis of U.S. Elementary, Middle, and High Schools*, 12 YOUTH VIOLENCE & JUV. JUST. 332 (2014).

184. *Id.* at 340-42.

185. *Id.* at 343-44.

having a sustained law enforcement presence. However, the concentration of impoverished students was associated with a sustained law enforcement presence at both elementary and middle schools.¹⁸⁶

One of the authors of this study previously exploited data from the 2009-2010 SSOCS to examine schools' reliance on various combinations of security measures.¹⁸⁷ Those measures included (1) requiring students to pass through metal detectors daily, (2) performing one or more random metal detector checks on students, (3) performing random sweeps for contraband, (4) locking or monitoring gates, (5) using security cameras, and (6) having security guards or law enforcement officers present at least once a week.¹⁸⁸ After controlling for various school and student characteristics, such as school officials' perceptions of neighborhood crime, school crime, school disorder, and other school and student characteristics, Nance found that "as the school's percentage of minority students increase[d], the odds of using combinations of security measures also increase[d]."¹⁸⁹

Jeremy Finn and Timothy Servoss also examined the relationship between race and security measures using data from the Common Core of Data, the Civil Rights Data Collection, and the Educational Longitudinal Study of 2002.¹⁹⁰ After controlling for various student and school characteristics, they found that "the percentage of Black students enrolled [in a school] was more highly related to security levels than was any other characteristic."¹⁹¹

Katarzyna T. Steinka-Fry, Benjamin Fisher, and Emily Tanner-Smith also studied the relationship between race and school security measures using four years of SSOCS data and the School Crime Supplement to the National Crime Victimization Study.¹⁹² They accounted for characteristics such as neighborhood crime, urbanicity, school disorder, and school structural features and found that higher concentrations of low-income and African-American students were

186. *Id.*

187. See Jason P. Nance, *Students, Security, and Race*, 63 EMORY L.J. 1, 40 (2013).

188. *Id.* at 31.

189. *Id.* at 40-41.

190. Jeremy D. Finn & Timothy J. Servoss, *Security Measures and Discipline in American High Schools*, in CLOSING THE SCHOOL DISCIPLINE GAP: EQUITABLE REMEDIES FOR EXCESSIVE EXCLUSION 44, 46 (Daniel J. Losen ed., 2015).

191. *Id.* at 49; see also Timothy J. Servoss, *School Security and Student Misbehavior: A Multi-Level Examination*, 49 YOUTH & SOC. 755, 767 (2014) (examining the Education Longitudinal Study of 2002 and finding that "students in high security schools are 11.78 times more likely to be African American than White"); Thomas J. Mowen & Karen F. Parker, *Minority Threat and School Security: Assessing the Impact of Black and Hispanic Student Representation on School Security Measures*, 30 SEC. J. 504, 514-19 (2016) (finding that the percentage of American-Americans students was positively connected to the use of intense surveillance measures).

192. Katarzyna T. Steinka-Fry et al., *Visible School Security Measures Across Diverse Middle and High School Settings: Typologies and Predictors*, 11 J. APPLIED SEC. RSCH. 422, 424 (2016).

positively associated with the use of intense surveillance measures.¹⁹³ They also found that African-American and Hispanic students were more likely to indicate that they attended a school that used intensive security measures.¹⁹⁴

Taking a different approach, Karen DeAngelis, Brian Brent, and Danielle Ianni exploited Texas financial data to analyze how much school districts spent on security measures and how spending varied according to school district characteristics.¹⁹⁵ Their study revealed two interesting findings. First, after controlling for school district characteristics such as urbanicity, district wealth, student enrollment, and student poverty, school districts with higher concentrations of minority students spent more on security measures than other school districts.¹⁹⁶ Second, their analysis revealed that poorer school districts with larger populations of marginalized students spent disproportionately more on security measures than wealthier school districts.¹⁹⁷

2. Exclusionary Discipline Measures, Including Law Enforcement Referrals and School-Based Arrests

Scholars repeatedly have observed racially disparate outcomes associated with suspensions, expulsions, and other disciplinary measures after controlling for student misbehavior, academic achievement, neighborhood context, district and school characteristics, and poverty.¹⁹⁸ Greater scrutiny of these studies reveals a consistent pattern that explains the context surrounding when we should expect to observe greater racial disparities related to disciplinary outcomes.

For example, Eric Girvan and colleagues examined the disciplinary records of over 1.15 million students from over 1,800 schools.¹⁹⁹ They discovered that racial disparities were more pronounced in office dis-

193. *Id.* at 431.

194. *Id.*

195. Karen J. DeAngelis et al., *The Hidden Cost of School Security*, 36 J. EDUC. FIN. 312 (2011).

196. *Id.* at 329.

197. *Id.* at 329-31.

198. See U.S. GOV'T ACCOUNTABILITY OFF., GAO-18-258, K-12 EDUCATION: DISCIPLINE DISPARITIES FOR BLACK STUDENTS, BOYS, AND STUDENTS WITH DISABILITIES 1, 12-14 (2018); Yolanda Anyon et al., *The Persistent Effect of Race and the Promise of Alternatives to Suspension in School Discipline Outcomes*, 44 CHILD. & YOUTH SERVS. REV. 379, 380 (2014); Russell J. Skiba et al., *Race Is Not Neutral: A National Investigation of African American and Latino Disproportionality in School Discipline*, 40 SCH. PSYCH. REV. 85, 95-101 (2011); Eric J. Girvan, *Towards a Problem-Solving Approach to Addressing Racial Disparities in School Discipline Under Anti-Discrimination Law*, 50 U. MEM. L. REV. 995, 997 (2020).

199. Eric J. Girvan et al., *The Relative Contribution of Subjective Office Referrals to Racial Disproportionality in School Discipline*, 32 SCH. PSYCH. Q. 392, 396 (2017).

cipline referrals (ODRs) that reflected a subjectively defined judgment (e.g., disruption, defiance, disrespect) than for ODRs reflecting objectively defined judgment (truancy, fighting).²⁰⁰

Similarly, Francis Huang and colleagues examined survey data in Virginia and discovered that Black and white student suspension rates were similar for fighting, white student suspension rates were higher for drug, alcohol, and tobacco-related offenses, and Black student suspension rates were higher for verbal misbehavior that included using inappropriate language, arguing, or threats.²⁰¹ They concluded that while “there may be cultural and linguistic differences in social behaviors that lead school authorities to react differently to Black students who express their feelings in a manner they do not find acceptable,” their findings were also “consistent with the view that Black students are suspended disproportionately because of more subjective judgments by school authorities.”²⁰²

Tony Fabelo and colleagues conducted a longitudinal study that involved over 900,000 students in Texas.²⁰³ They examined racial disparities related to disciplinary actions for (1) felony offenses requiring mandatory removal under state law (e.g., drug or alcohol possession, weapon possession, aggravated assault, sexual assault), and (2) offenses where school authorities had discretion to remove students from school.²⁰⁴ They found that “African-American students had about a 31[%] higher likelihood of a discretionary school disciplinary action, compared to the rate for otherwise identical white students.”²⁰⁵ Furthermore, “African-American students had about a 23[%] *lower* likelihood of facing a mandatory school disciplinary action . . . compared to otherwise identical white students.”²⁰⁶

Russell Skiba and colleagues studied disciplinary records in nineteen middle schools in a large, urban, midwestern public school district.²⁰⁷ They found that white students were more likely to be referred to school officials for more objective offenses such as smoking, leaving without permission, vandalism, and using obscene language.²⁰⁸

200. *Id.* at 400-02.

201. Francis L. Huang & Dewey G. Cornell, *Student Attitudes and Behaviors as Explanations for the Black-White Suspension Gap*, 73 CHILD. & YOUTH SERVS. REV. 298, 301, 305 (2017).

202. *Id.* at 305.

203. TONY FABELO ET AL., *BREAKING SCHOOLS' RULES: A STATEWIDE STUDY OF HOW STUDENT DISCIPLINE RELATES TO STUDENTS' SUCCESS AND JUVENILE JUSTICE INVOLVEMENT* 25-26, 31-32, 70 (2011).

204. *Id.* at 43.

205. *Id.* at 45.

206. *Id.*

207. Russell J. Skiba et al., *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*, 34 URB. REV. 317, 323 (2002).

208. *Id.* at 332, 334.

Black students, on the other hand, were more likely to be referred to school officials for offenses that required more subjective judgment, such as threats, disrespect, and being too loud.²⁰⁹

Taken together, these studies suggest that racial disparities tend to emerge for offenses requiring subjective judgment, such as disrespect, defiance, or disruption. In contrast, we observe fewer racial disparities for offenses that demand less subjective judgment, such as drug and alcohol possession, fighting, and truancy. Accordingly, because most referrals to law enforcement in the school disciplinary context are for objectively defined offenses (e.g., possession of drugs and alcohol, possession of weapons, vandalism), we should expect to observe fewer racial disparities in school-based arrests and rates of referrals to law enforcement.

At least at the school level, empirical studies do not show evidence of racial disparities for law enforcement referrals. Exploiting 2015-2016 SSOCS data, we previously investigated the effect of a school's concentration of Black students on a school's rate of referrals to law enforcement.²¹⁰ After accounting for various school-level and student-focused variables, state statutes mandating referrals to law enforcement, a regular law enforcement presence, and school district-level per pupil spending, we observed that a school's percentage of Black students did not "correspond with any systematic increase in that school's likelihood of reporting student incidents to law enforcement."²¹¹ Similarly, using 2009-2010 SSOCS data, one of the authors of this study examined the relationship between the concentration of minority students in a school and student referrals to law enforcement for various offenses.²¹² After controlling for student-focused variables, school-level variables, and state statute reporting requirements, Nance found that "the percentage of minority students a school serves generally is insignificant with respect to all of the offenses except two, where it is a negative predictor (robbery without a weapon and alcohol offenses)."²¹³

Empirical studies at the national level, however, reveal that Black students are overrepresented for both school-based arrests and referrals to law enforcement. For example, data from the U.S. Department

209. *Id.*

210. See Heise & Nance, *supra* note 3, at 758, 760, 763.

211. *Id.* at 757-58, 760, 763.

212. Nance, *supra* note 3, at 958-75.

213. *Id.* at 973. But see David M. Ramey, *The Social Structure of Criminalized and Medicalized School Discipline*, 88 SOC. EDUC. 181 (2015). Ramey examined the relationship between school- and district-level racial compositions and rates of referrals to law enforcement and school-based arrests using data from the 2009-2010 U.S. Department of Education's Civil Rights Data Collection and the 2009-2010 National Center for Education Statistics Common Core of Data. *Id.* at 187. Ramey found that schools (but not districts) with higher concentrations of Black students were associated with higher referral rates and arrest rates. *Id.* at 189, 192. However, Ramey did not control for the regular presence of law enforcement officers at school or for state statutes mandating reporting to law enforcement. *Id.* at 188.

of Education's Civil Rights Data Collection from 2011-2012 show that Black students represent 16% of the total enrollment of students nationally, but they represent 27% of students referred to law enforcement and 31% of students subjected to a school-related arrest.²¹⁴ We observe similar disparities at the state level.²¹⁵ Our study may begin to explain why we observe racial disparities on national and state levels but not at the school level. If a sustained law enforcement presence drives referrals to law enforcement and a sustained law enforcement presence is more likely to occur in schools with higher concentrations of African-American students, we could observe racial disparities at national and state levels while not observing disparities at the school level.²¹⁶

F. The Effects of Racial Bias on Decisionmaking

Two prominent themes emerge from the empirical literature. First, with respect to exclusionary school discipline outcomes, racial disparities tend to be more observable and pronounced for offenses requiring subjectively defined judgment (e.g., disruption, disrespect, defiance) than for offenses that require objectively defined judgment (e.g., drug/alcohol/weapons possession, fighting, smoking).²¹⁷ Girvan maintains that we tend to observe racial disparities for offenses related to subjectively defined behavior expectations because they "are more likely to be influenced by biases."²¹⁸ Offenses that require objectively defined judgment, however, are "more robust to the effects of racial

214. See OFF. FOR C.R., U.S. DEP'T OF EDUC., CIVIL RIGHTS DATA COLLECTION DATA SNAPSHOT: SCHOOL DISCIPLINE 1, 6 (2014); see also Emily M. Homer & Benjamin W. Fisher, *Police in Schools and Student Arrest Rates Across the United States: Examining Differences by Race, Ethnicity, and Gender*, 19 J. SCH. VIOLENCE 192, 198-99 (2020) (analyzing data from the 2013-2014 Civil Rights Data Collection and concluding that "Black students' arrest rates were higher . . . by 1.22 students per 1,000").

215. See, e.g., Evie Blad & Alex Harwin, *Black Students More Likely to Be Arrested at School*, EDUC. WEEK (Jan. 24, 2017), <https://www.edweek.org/ew/articles/2017/01/25/black-students-more-likely-to-be-arrested.html?r=1131109146> [<https://perma.cc/5WRQ-GTYG>] ("In 43 states and the District of Columbia, black students are arrested at school at disproportionately high levels . . .").

216. See *infra* Part III.

217. Girvan et al., *supra* note 199, at 394-96, 401.

218. Girvan, *supra* note 198, at 1011.

stereotypes and attitudes.”²¹⁹ Although educators’ biases most likely are not the sole cause for these racial disparities,²²⁰ many scholars agree that biases contribute to these disparate outcomes.²²¹

The second prominent theme that emerges is that the concentration of racial minorities in a school, particularly African Americans, is associated with the use of more intensive surveillance measures. Again, while biases most likely are not the sole cause of this phenomenon, intensive surveillance decisions also may be influenced to some degree by implicit racial stereotypes and attitudes.²²²

Implicit attitudes and stereotypes can be powerful drivers that influence decisionmaking.²²³ Researchers theorize that we develop implicit attitudes and stereotypes through repeated exposures to connections between racial groups and various traits and concepts.²²⁴ Those living in the United States repeatedly have been exposed to information associating African Americans with crime, danger, violence, and aggression and, accordingly, may associate this racial group with these and other negative traits.²²⁵ Empirical studies reveal that

219. *Id.*

220. See, e.g., Girvan, *supra* note 198; Russell J. Skiba et al., *Parsing Disciplinary Disproportionality: Contributions of Infraction, Student, and School Characteristics to Out-of-School Suspension and Expulsion*, 51 AM. EDUC. RSCH. J. 640, 644-47 (2014); Girvan et al., *supra* note 199, at 393; Jason A. Okonofua et al., *A Vicious Cycle: A Social-Psychological Account of Extreme Racial Disparities in School Discipline*, 11 PERSPS. ON PSYCH. SCI. 381, 382-85 (2016); Michael Rocque & Raymond Paternoster, *Understanding the Antecedents of the “School-to-Jail” Link: The Relationship Between Race and School Discipline*, 101 J. CRIM. L. & CRIMINOLOGY 633, 635-39 (2011).

221. See Girvan, *supra* note 198; Okonofua et al., *supra* note 220, at 383-85; Jason A. Okonofua & Jennifer L. Eberhardt, *Two Strikes: Race and the Disciplining of Young Students*, 26 PSYCH. SCI. 617, 622-23 (2015); Kent McIntosh et al., *Education Not Incarceration: A Conceptual Model for Reducing Racial and Ethnic Disproportionality in School Discipline* 5 J. APPLIED RSCH. ON CHILD. 1, 4-7 (2014).

222. For an extended discussion of implicit racial bias, see Jason P. Nance, *Implicit Racial Bias and Students’ Fourth Amendment Rights*, 94 IND. L.J. 47, 54-65, 72-73 (2019).

223. See Anthony G. Greenwald & Linda Hamilton Krieger, *Implicit Bias: Scientific Foundations*, 94 CALIF. L. REV. 945, 946 (2006). An attitude is “an evaluative disposition—that is, the tendency to like or dislike, or to act favorably or unfavorably towards, someone or something.” *Id.* at 948. A stereotype is a “socially shared set of beliefs about traits that are characteristic of members of a social category.” Anthony G. Greenwald & Mahzarin R. Banaji, *Implicit Social Cognition: Attitudes, Self-Esteem, and Stereotypes*, 102 PSYCH. REV. 4, 14 (1995).

224. See L. Song Richardson & Phillip Atiba Goff, *Implicit Racial Bias in Public Defender Triage*, 122 YALE L.J. 2626, 2630 (2013).

225. *Id.*; Jennifer L. Eberhardt et al., *Seeing Black: Race, Crime, and Visual Processing*, 87 J. PERSONALITY & SOC. PSYCH. 876, 876 (2004); Benjamin W. Fisher et al., *Protecting the Flock or Policing the Sheep? Differences in School Resource Officers’ Perceptions of Threats by School Racial Composition*, 69 SOC. PROBS. 316, 330-31 (2022); L. Song Richardson, *Police Efficiency and the Fourth Amendment*, 87 IND. L.J. 1143, 1147 (2012).

individuals perceive Black children and youth of every age group after the age of nine as less innocent than other children and youth and deem them more culpable for their actions.²²⁶

Scientists have documented the effects of bias on decisionmaking in several contexts, including in the areas of education and discipline.²²⁷ For example, Jason Okonofua and Jennifer Eberhardt conducted several controlled experiments to measure how decisionmaking influences decisions related to school discipline.²²⁸ In their experiments, teachers viewed a school record of a student who misbehaved once for insubordination and once for a classroom disturbance.²²⁹ The race of the misbehaving student was manipulated by using a stereotypical Black or white name.²³⁰ The teachers were then asked a series of questions on the severity of the student's behavior and how severely the student should be disciplined.²³¹ The researchers discovered that when the student was Black, the teachers "felt significantly more troubled by the second infraction," responded that the "misbehavior should be met with more severe discipline," more frequently perceived the student as a "troublemaker," and were more likely to see themselves suspending the student at a future time.²³²

Importantly, research suggests that racial biases influence perceptions not only about individuals, but also with respect to areas populated with higher concentrations of racial minorities. For example, Robert Sampson and Stephen Raudenbush studied how individuals perceive disorder in neighborhoods and compared those perceptions to "independent assessments of disorder that are reliable and ecologically valid."²³³ They evaluated census data, police data recording violent crimes, results from personal interviews of neighborhood residents, and observational data of city streets.²³⁴ They learned that the neighborhoods' racial and ethnic compositions of African Americans and

226. See Phillip Atiba Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children*, 106 J. PERSONALITY & SOC. PSYCH. 526, 531-32 (2014).

227. See Nance, *supra* note 222, at 60-63.

228. Okonofua & Eberhardt, *supra* note 221, at 617-18.

229. *Id.* at 618.

230. *Id.*

231. *Id.*

232. *Id.* at 619-22; see also Claire E. Kunesh & Amity Noltemeyer, *Understanding Disciplinary Disproportionality: Stereotypes Shape Pre-Service Teachers' Beliefs About Black Boys' Behavior*, 54 URB. EDUC. 471, 483-87 (2019) (finding that pre-service teachers assigned to read a questionnaire featuring a Black student were more likely to believe that student's misbehavior would recur than pre-service teachers who read the same questionnaire featuring a white student).

233. Robert J. Sampson & Stephen W. Raudenbush, *Seeing Disorder: Neighborhood Stigma and the Social Construction of "Broken Windows"*, 67 SOC. PSYCH. Q. 319, 324 (2004).

234. *Id.* at 319, 336.

Latinos were stronger predictors of perceptions of disorder by neighborhood residents than actual, valid indicators of disorder.²³⁵ The researchers replicated the study on community leaders who did not live in the communities where they worked.²³⁶ Again, they found that the racial and ethnic compositions of the neighborhoods were stronger predictors of perceptions of neighborhood disorder than actual, valid indicators of disorder.²³⁷

Sampson and Raudenbush's findings comport with two other empirical studies. In the first, Lincoln Quillian and Devah Pager analyzed police crime statistics, census data, and survey data from Chicago, Baltimore, and Seattle.²³⁸ After controlling for variables such as neighborhood deterioration, crime rates, and rates of victimization, they discovered that a neighborhood's composition of young, male African Americans was "one of the best predictors of the perceived severity of neighborhood crime."²³⁹ They observed that their findings "suggest that the strong mental association between race and crime has a powerful influence on perceptions of neighborhood crime levels, beyond any actual association between race and crime."²⁴⁰ In the second study, Joshua Correll and his colleagues analyzed police officers' tendencies to shoot or not shoot African Americans and white targets.²⁴¹ They discovered that certain biases of police officers' increased when the officers served in urban environments working with higher concentrations of African-American residents.²⁴²

Collectively, these empirical studies imply that "racial spaces"—or defined areas that are populated with high concentrations of African Americans—can trigger racial biases and influence perceptions and decisionmaking. Thus, school officials working among higher concentrations of African Americans may be more inclined to perceive disorder, danger, or threat even though valid indicators may not support those perceptions.²⁴³

235. *Id.* at 336.

236. *Id.*

237. *Id.*

238. Lincoln Quillian & Devah Pager, *Black Neighbors, Higher Crime? The Role of Racial Stereotypes in Evaluations of Neighborhood Crime*, 107 AM. J. SOCIO. 717, 747 (2001).

239. *Id.*

240. *Id.* at 748.

241. Joshua Correll et al., *Across the Thin Blue Line: Police Officers and Racial Bias in the Decision to Shoot*, 92 J. PERSONALITY & SOC. PSYCH. 1006, 1020-22 (2007).

242. *Id.*

243. See Nance, *supra* note 222, at 64; see also Fisher et al., *supra* note 225, at 318 (explaining that racial composition of schools can "shape perceptions of threats, particularly when stereotype-consistent cues are observed").

II. DATA AND EMPIRICAL STRATEGY

We provide an in-depth empirical analysis focusing on the characteristics of schools more likely to have regular contact with law enforcement. We also contribute a critical longitudinal perspective by analyzing data that span a decade, uncovering important trends and identifying characteristics that predict regular contact with law enforcement that have persisted over time. Understanding the forces driving school officials' decisions to create partnerships with law enforcement agencies is important because of the legal and policy implications these decisions have for students.

We analyze data from the nation's leading cross-sectional data set on public school crime and safety gathered over three time periods. Furthermore, we supplement those data with complimentary information from other long-standing data sets, further distinguishing our study from those conducted by other scholars. We test our various hypotheses by estimating multivariate and logistic regression models.

A. Data

We exploit data from the SSOCS collected at three stages from 2009 to 2018: the academic years of 2009-2010 (SSOCS 2009-2010), 2015-2016 (SSOCS 2015-2016), and 2017-2018 (SSOCS 2017-2018). We analyze data from the restricted-access versions of these datasets because they provide more granular school-level counts of variables central to this study, including metrics associated with student poverty and student race.²⁴⁴

The National Center for Education Statistics (NCES) constructed the samples for all three SSOCS datasets by drawing from various versions of the Common Core of Data Public Elementary/Secondary School Universe File (CCD),²⁴⁵ which is an "annual collection of fiscal and nonfiscal data on all public schools, public school districts, and state education agencies in the United States."²⁴⁶ Drawing the samples from the CCD helps ensure that the weighted SSOCS data sets reflect

244. See *Restricted Use Data Licenses*, NAT'L CTR. FOR EDUC. STAT., <https://nces.ed.gov/statprog/instruct.asp> [<https://perma.cc/CVN4-R7KH>] (last visited Dec. 31, 2022), for a more detailed description of "restricted-use data." While the restricted-use datasets are not available to the general public, the public-use data files may be downloaded at https://nces.ed.gov/surveys/ssocs/data_products.asp#2016 [<https://perma.cc/4MJU-ENND>] (last visited Dec. 31, 2022).

245. See ZOE PADGETT ET AL., NAT'L CTR. FOR EDUC. STAT., U.S. DEP'T OF EDUC., 2017-18 SCHOOL SURVEY ON CRIME AND SAFETY (SSOCS): PUBLIC-USE DATA FILE USER'S MANUAL 13 (2020) [hereinafter 2017-18 SSOCS MANUAL]; MICHAEL JACKSON ET AL., NAT'L CTR. FOR EDUC. STAT., U.S. DEP'T OF EDUC., 2015-16 SCHOOL SURVEY ON CRIME AND SAFETY (SSOCS): PUBLIC-USE DATA FILE USER'S MANUAL 15 (2017) [hereinafter 2015-16 SSOCS MANUAL]; SAMANTHA NEIMAN ET AL., NAT'L CTR. FOR EDUC. STAT., U.S. DEP'T OF EDUC., 2009-10 SCHOOL SURVEY ON CRIME AND SAFETY: PUBLIC-USE DATA FILE USER'S MANUAL 8 (2015) [hereinafter 2009-10 SSOCS MANUAL].

246. 2017-18 SSOCS MANUAL, *supra* note 245, at 13.

representative samples of the total population of the nation's public schools.²⁴⁷ We excluded from our analyses schools that NCES classified as anything other than a "regular" public school²⁴⁸ because, consistent with other parallel empirical work, we are primarily interested in school-to-prison pipeline outcomes that occur in regular school settings.²⁴⁹ To reduce sampling error, minimize bias that may arise as a result of differences between responding and nonresponding schools, and enhance our ability to draw inferences to the broader universe of "regular" public schools, we weighted the data using the final analysis weight variable provided in the SSOCS data set.²⁵⁰

We supplement the SSOCS data in two important ways to account for other plausible factors that may influence decisions to have regular contact with law enforcement. Our inclusion of these supplemental data also further distinguishes our study from other studies that analyze SSOCS data, albeit for different purposes. First, we include school district-level data on current per pupil spending to facilitate comparisons of financial investments in public education.²⁵¹ To accomplish this, we matched district-level spending data from the U.S. Census Bureau's publicly available survey of public education and secondary schools to the SSOCS data.²⁵² In addition, we adjusted the school

247. Regarding the SSOCS 2017-2018, the total number of sampled schools was 4,800; of those sampled, 2,760 schools submitted completed questionnaires for an overall weighted response rate of 61.7% (raw response rate of 57.5%). 2017-18 SSOCS MANUAL, *supra* note 245, at 1. Regarding the SSOCS 2015-2016, the total number of sampled schools was 3,550; of those sampled, 2,090 schools submitted completed questionnaires for an overall weighted response rate of 62.9% (raw response rate of 58.9%). 2015-16 SSOCS MANUAL, *supra* note 245, at 1. Regarding the SSOCS 2009-2010, the total number of sampled schools was 3,480; of those sampled, 2,650 schools submitted completed questionnaires for an overall weighted response rate of 80.8% (raw response rate of 76.1%). 2009-2010 SSOCS MANUAL, *supra* note 245, at 1.

248. NCES defines a "regular public school" as a "public elementary/secondary school providing instruction and education services that does not focus primarily on special education, vocational/technical education, or alternative education, or on any of the particular themes associated with magnet/special program emphasis schools." 2017-18 SSOCS MANUAL, *supra* note 245, at 13 n.6.

249. See, e.g., MORGAN & AMERIKANER, *supra* note 6, at 3 (focusing on "regular" schools in the school finance context).

250. See, e.g., 2017-18 SSOCS MANUAL, *supra* note 245, at 19-20 ("Sampling weights allow inferences to be made about the population from which the sample units were drawn. Due to the complex nature of the [2017-2018 SSOCS] sample design, weights are necessary to obtain population-based estimates, to minimize bias arising from differences between responding and nonresponding schools, and to calibrate the data to known population characteristics in a way that reduces sampling error."). Data in most of our analyses used the final analysis weight (FINALWGT) variable. For a fuller description of the characteristics of the final analysis weight variable, see *id.*

251. Per pupil spending is the most prominent form of facilitating comparisons of student investment in the school finance literature. See Michael Heise, *Per Pupil Spending and Poverty's Persistent Penalty: An Empirical Analysis of 2016 District-Level NCES Data*, 45 J. EDUC. FIN. 149, 154-57 (2019) (assessing leading per pupil spending measures).

252. 2016 Public Elementary-Secondary Education Finance Data, U.S. CENSUS BUREAU, <http://www.census.gov/data/tables/2016/econ/school-finances/secondary-education-finance.html> [<https://perma.cc/VP2H-TA85>] (Oct. 8, 2021).

district-level current per pupil spending data using information from the Comparable Wage Index to account for cost-of-living variations that exist among the locations of the school districts.²⁵³

Second, we include state-level information regarding when schools are statutorily obligated to report students to law enforcement officers for committing certain offenses, such as sexual assault, drug possession, vandalism, and theft.²⁵⁴ We include these variables because they serve as a proxy, at least on the margins, for a state's general mindset and approach for controlling school crime.²⁵⁵ Doing so also facilitates a better comparison of variables we have included across a series of related empirical studies on the school-to-prison pipeline.²⁵⁶

B. Dependent Variables

Our primary analytical motivation is to better understand the characteristics of schools more likely to have regular contact with law enforcement officers. Specifically, at each of the three junctures, we sought to identify the characteristics of schools (1) more likely to have any regular contact with law enforcement officers, and (2) that experienced regular contact with a greater magnitude of law enforcement officers.

To accomplish this, we created two separate—though related—dependent variables. The first is a dummy variable that captured schools indicating that they had “any sworn law enforcement officers (including School Resource Officers) present at [their] school at least once a week.”²⁵⁷ The second is a continuous variable assessing the total number of SRO or sworn police officers that have regular contact with a school.

253. See LORIL TAYLOR & WILLIAM J. FOWLER, JR., U.S. DEP'T OF EDUC., A COMPARABLE WAGE APPROACH TO GEOGRAPHIC COST ADJUSTMENT (2006), for a detailed explanation and description of the Comparative Wage Index. See, e.g., Heise, *supra* note 251, at 154-57, and Thomas A. DeLuca, *Instructional Spending Metrics: A Multilevel Analysis Using NCES Data*, 44 J. EDUC. FIN. 23, 42 (2018), for a discussion of some of the limitations of the Comparable Wage Index adjustment.

254. See *supra* Part II.

255. See Nance, *supra* note 3, at 934-36.

256. See Heise & Nance, *supra* note 3, at 741-71; see also Michael Heise & Jason P. Nance, *To Report or Not to Report: Data on School Law Enforcement, Student Discipline, and the “School-to-Prison Pipeline,”* 55 UC DAVIS L. REV. 209, 247-62 (2021); Jason P. Nance & Michael Heise, *School Law Enforcement Officers, Students, and the School-to-Prison Pipeline*, 54 ARIZ. ST. L.J. 527 (2022); Michael Heise & Jason P. Nance, *Per Pupil and School Safety Spending: An Empirical Perspective*, 47 J. EDUC. FIN. 225 (2022); Michael Heise & Jason P. Nance, *Do Perceptions Become Reality?: Exploring Principals' Perceptions, Schools' SRO/Police Presence, and Student Discipline Reporting Policies*, 20 J. SCH. VIOLENCE 449 (2021).

257. 2017-18 SSOCS MANUAL, *supra* note 245, at A-10; 2015-16 SSOCS MANUAL, *supra* note 245, at A-11; 2009-10 SSOCS MANUAL, *supra* note 245, at A-9.

C. Independent Variables

The probability that a school will have regular contact with law enforcement may be influenced by a complex interaction of other factors. Accordingly, our models include an array of control variables that we loosely organize into two general categories: school- and student-level factors.

1. School-Level Variables

We identified several school-level factors that may influence the probability of schools having regular contact with law enforcement. The first two variables seek to account for the level of actual disorder that existed in a school at the time the data was collected. When school officials confront a disorderly learning climate, they may be more inclined to implement measures, including criminal justice-oriented measures, to stabilize and control the environment.²⁵⁸ To measure a school's level of "disorder," we created a variable by indexing a school's total number of recorded disciplinary incidents (per 100 students). We also accounted for student enrollment instability by measuring the total percentage of students who either transferred in or out of the school during each of the respective school years, which also could lead to increased disorder in the school.

The next two school-level variables seek to account for school officials' perceptions of external threat. First, we include a score provided by school officials that measured their perceptions of the general crime levels in the area in which their school is located on a three-point scale (low to high). Second, we controlled for a school's urbanicity factor because it is possible that schools located in more urbanized environments might be more likely to rely on criminal justice-oriented measures designed to keep students safe from harm.²⁵⁹ A school's urbanicity score was measured on a four-point scale ranging from "rural" to "city."²⁶⁰

We also accounted for school size and student-teacher ratio. School size is important because it may influence the level of strong personal relationships that exist among members of the school community, including among students, teachers, and parents.²⁶¹ An impersonal

258. See Noguera, *supra* note 80, at 345.

259. See Kelly Welch & Allison Ann Payne, *Racial Threat and Punitive School Discipline*, 57 SOC. PROBS. 25, 28 (2010).

260. 2017-18 SSOCS MANUAL, *supra* note 245, at C-71; 2015-16 SSOCS MANUAL, *supra* note 245, at D-84; 2009-10 SSOCS MANUAL, *supra* note 245, at 61.

261. See John R. Slate & Craig H. Jones, *Effects of School Size: A Review of the Literature with Recommendations*, 13 ESSAYS EDUC. 1, 9 (2005); Kathleen Cotton, *School Size, School Climate, and Student Performance*, in SCHOOL IMPROVEMENT RESEARCH SERIES (Nw. Reg'l Educ. Lab'y 1996), <https://educationnorthwest.org/sites/default/files/SizeClimateandPerformance.pdf> [<https://perma.cc/C7J3-DSRE>].

school community may lead to greater distrust, antagonistic relationships, and a sense of threat.²⁶² Greater levels of distrust, antagonism, and threat may influence school officials to establish partnerships with law enforcement agencies in an attempt to better control the environment and prevent perceived likelihood of future harm.²⁶³ Relatedly, smaller learning environments may facilitate building a healthier school climate.²⁶⁴ Healthy school climates are conducive to higher levels of satisfaction, a greater sense of belonging, a greater degree of engagement, and fewer behavioral problems.²⁶⁵ Thus, fostering a more positive school climate may reduce the need for a regular law enforcement presence at a school.²⁶⁶ For similar—though sufficiently distinct—reasons, we also include a variable that measured each school’s student-teacher ratio. Having more adults focused on students’ education needs also may foster a more positive school climate.²⁶⁷

A school’s fiscal strength may also contribute to a school’s positive climate and reduce the need for a regular presence of law enforcement. Schools with greater resources are better positioned to hire more personnel, fund programs, invest in infrastructure, and foster student engagement, all of which can enhance a school’s climate and reduce student disciplinary events.²⁶⁸ Fiscal strength may also capture other unobservable aspects of school climate.²⁶⁹

To operationalize a school’s fiscal strength, we include a standard proxy, which is the annual current per pupil spending for each of three school years aligned with the SSOCS datasets. We accomplish this by exploiting the leading sources of school district-level per pupil spending data—the U.S. Census Bureau’s annual survey of public elementary and secondary schools for financial information.²⁷⁰ Furthermore, we supplemented the U.S. Census Bureau’s data with data from the

262. See Noguera, *supra* note 80, at 342, 345; Fedders, *supra* note 9, at 1484.

263. Noguera, *supra* note 80, at 342, 345.

264. Seth Gershenson & Laura Langbein, *The Effect of Primary School Size on Academic Achievement*, 37 EDUC. EVAL. & POL’Y ANALYSIS, 135S, 137S (2015); Slate & Jones, *supra* note 261, at 9; Cotton, *supra* note 261; Kenneth Leithwood & Doris Jantzi, *A Review of Empirical Evidence About School Size Effects: A Policy Perspective*, 79 REV. EDUC. RSCH. 464, 475 (2009).

265. Thapa et al., *supra* note 177, at 357-60; Karen F. Osterman, *Students’ Need for Belonging in the School Community*, 70 REV. EDUC. RSCH. 323, 323-24 (2000).

266. See KUPCHIK, *supra* note 10, at 26.

267. See Heise & Nance, *supra* note 3, at 747.

268. See Nance, *supra* note 15, at 345-62.

269. See Heise & Nance, *supra* note 3, at 748.

270. See *School District Estimates for 2010*, U.S. CENSUS BUREAU, <https://www.census.gov/data/datasets/2010/demo/saipe/2010-school-districts.html> [https://perma.cc/849R-M9Q6] (Oct. 8, 2021); *SAIPE School District Estimates for 2016*, U.S. CENSUS BUREAU, <https://www.census.gov/data/datasets/2016/demo/saipe/2016-school-districts.html> [https://perma.cc/F4P4-ZKZQ] (Oct. 8, 2021); *SAIPE School District Estimates for 2018*, U.S. CENSUS BUREAU, <https://www.census.gov/data/datasets/2018/demo/saipe/2018-school-districts.html> [https://perma.cc/W7XP-MEGB] (Nov. 8, 2021).

U.S. Department of Education's National Center for Education Statistics Comparable Wage Index to adjust for cost-of-living variations that exist in the thousands of school districts across the nation.²⁷¹ We also converted the per pupil spending dollars for each school year to 2020 dollars to account for inflation and to facilitate meaningful comparisons across school years.

Our decision to include school district-level per pupil spending data creates two slight complications for this study. First, not every school in our sample comes from a different school district. For example, for the 2015-2016 SSOCS, the total number of "regular" schools in our sample (1,890) derive from 1,490 different school districts, meaning that four hundred schools are from a school district that includes at least one other school in the sample. Of course, the district-level current per pupil spending value does not vary for schools from the same school district. While this may not be ideal, it should not unduly distort our results. Second, it is not uncommon for schools within the same school district to vary in per pupil spending, meaning that the average district-level per pupil spending for each school may not fully reflect the per pupil spending for each school in our study.²⁷² While perhaps also not ideal, researchers that focus on per pupil spending variations normally focus on variation across—rather than within—school districts.²⁷³ Thus, our research facilitates greater comparison among the wide array of studies that examine outcomes associated with variations in district-level per pupil spending.²⁷⁴

We also account for whether school officials were obligated to report various disciplinary incidents to law enforcement under prevailing state law. As explained above, mandatory reporting obligations may serve as a proxy to some extent for a state's general mindset and approach to controlling school crime.²⁷⁵ To accomplish this, we identified the relevant statutes and regulations in all fifty states and the District of Columbia that were in place during the 2009-2010, 2015-2016, and 2017-2018 academic years. We coded a dummy variable as "1" if there

271. See *supra* note 253 and accompanying text.

272. See, e.g., Ary Amerikaner, Opinion, *The Hidden Inequality in Schools*, N.Y. TIMES, Jan. 30, 2020, at A31 (explaining the variation in consequential per pupil spending that sometimes exists across schools in the same school district). See generally Simon Ejde-myrt & Kenneth A. Shores, Pulling Back the Curtain: Intra-District School Spending Inequality and Its Correlates (Jul 27, 2017) (unpublished manuscript), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3009775 [<https://perma.cc/69D5-4KJD>].

273. See, e.g., BRUCE BAKER ET AL., IS SCHOOL FUNDING FAIR? A NATIONAL REPORT CARD 9, 11 fig.2 (7th ed. 2018); BRUCE D. BAKER, CTR. FOR AM. PROGRESS, AMERICA'S MOST FINANCIALLY DISADVANTAGED SCHOOL DISTRICTS AND HOW THEY GOT THAT WAY 11, 14, 19, 21, 23-25 (2014).

274. See Heise, *supra* note 251, at 154-57 for a discussion of the various leading per pupil spending measures.

275. Including these variables also facilitates a better comparison of the variables we have included across a series of related empirical studies on school crime and safety and the school-to-prison pipeline. See *supra* note 256.

was a clear and relatively unambiguous mandatory reporting obligation in place during the relevant time period in which a student disciplinary incident occurred. We created two separate mandatory reporting variables—one for violent student incidents and another for non-violent incidents—to account for varying degrees of a state’s approach to control school crime.

The final school-level variable we include is whether the school is an elementary school. Although the majority of schools in the United States are elementary schools, which is reflected in our samples,²⁷⁶ most school crime and violence occur in secondary schools.²⁷⁷ Nevertheless, some of the most highly publicized and tragic events of school violence in the United States occurred at Sandy Hook (CT) Elementary School and, more recently, at Robb Elementary School (TX).²⁷⁸ Consequently, we approached this study with particular curiosity about how elementary schools may differ from secondary schools with respect to having regular contact with law enforcement. To explore these questions, we included a dummy variable coded for “1” for elementary schools.

2. Student-Focused Variables

We inserted several key student-focused variables into our models, especially factors reflecting student marginalization. Several prior empirical studies indicate that student marginalization factors may influence a school’s approach to school discipline and crime prevention.²⁷⁹ In particular, as explained in Part I, prior research suggests that the concentration of minority students in a school, especially the concentration of African-American students, can influence the level of criminal justice-oriented security school officials choose to implement.²⁸⁰ Accordingly, we accounted for each school’s percentage of African-American students, nonwhite students (including African-American

276. See *infra* Table 1 (indicating that 59% of the sampled schools in both 2009-2010 and 2015-2016 were elementary schools, and 60% were elementary schools in 2017-2018).

277. See WANG ET AL., *supra* note 45, at 130 tbl.1.2 (2020) (showing that the vast majority of school shootings in the last twenty years occurred at a secondary school).

278. See James Barron, *Nation Reels After Gunman Massacres 20 Children at School in Connecticut*, N.Y. TIMES (Dec. 14, 2012), <https://www.nytimes.com/2012/12/15/nyregion/shooting-reported-at-connecticut-elementary-school.html> [<https://perma.cc/D3BS-ZYEH>]; Edgar Sandoval, *‘I Don’t Feel Safe.’ Children Fear Going Back to School in Uvalde*, N.Y. TIMES (Aug. 23, 2022), <https://www.nytimes.com/2022/08/23/us/uvalde-back-to-school-arredondo.html> [<https://perma.cc/9JD7-UPGW>].

279. See *supra* Section I.E.1-2.

280. See *supra* Section I.E.1.

students), and students in poverty.²⁸¹ In addition, because multiple prior empirical studies indicate that boys generally are more likely than girls to be disciplined in school,²⁸² we also accounted for a school's percentage of male students.

Table 1 presents basic summary statistics on all of the variables we included in our models. Table 2 contains the summary descriptive statistics of the independent variables in a disaggregated form. We disaggregated the means pursuant to whether schools had regular contact with law enforcement officers during each of the relevant time periods.

281. Students in poverty is measured by students eligible to participate in a free or reduced-lunch program. See Heise, *supra* note 251, at 158, for a general discussion of various student poverty measures.

282. See U.S. GOV'T ACCOUNTABILITY OFF., *supra* note 198, at 15-16 (maintaining that boys are overrepresented among students who receive school discipline); John M. Wallace Jr. et al., *Racial, Ethnic, and Gender Differences in School Discipline Among U.S. High School Students: 1991-2005*, 59 NEGRO EDUC. REV. 47, 54 (2008) ("Within racial and ethnic subgroups, boys are consistently more likely than girls of the same racial or ethnic group to have experienced school discipline.").

TABLE 1: SUMMARY DESCRIPTIVE STATISTICS

	09-10	15-16	17-18
<i>Dependent Variables:</i>			
Was a full- or part-time SRO/police at school (1 = yes)	0.36	0.50	0.54
Number of full- and part-time SRO/police at school	0.64	0.84	0.89
<i>Independent Variables:</i>			
School student:teacher ratio	16.32	17.79	17.12
School student mobility % (in/out)	15.96	15.05	13.28
School urbanicity scale (rural-to-urban; 1-4)	2.42	2.51	2.53
School disorder report rate (per 100 students)	2.29	1.57	1.61
School area crime scale (low-to-high; 1-3)	1.30	1.31	1.29
School student enrollment	578.04	595.4	604.25
Elementary school (1 = yes)	0.59	0.59	0.60
Mand. sch. violent incident report req. (1 = yes)	0.88	0.90	0.87
Mand. sch. non-violent incident report req. (1 = yes)	0.67	0.69	0.67
Sch. student poverty %	51.00	56.15	57.33
Sch. student nonwhite %	37.84	43.1	44.21
Sch. student Black %	14.11	12.46	13.24
Sch. student male %	49.05	49.7	50.40
Sch. dist. mean per pupil spending (orig. \$s)	11,227	11,196	12,225
Sch. dist. mean per pupil spending (2020 \$s)	13,282	11,181	12,491

NOTES: Reported means derive from the SSOCS weighted sample; N (unweighted) = 2,420 (09-10), 1,890 (15-16), and 2,500 (17-18).

SOURCES: U.S. Dept. Educ., Nat'l Ctr. Educ. Stat., 2009-10, 2015-16, and 2017-18 School Survey on Crime and Safety (SSOCS); U.S. Dept. Comm., Census Bureau, 2010, 2016, and 2018 Public Elementary-Secondary Education Finance Files.

TABLE 2: COMPARING SCHOOLS WITH AND WITHOUT
A REGULAR LAW ENFORCEMENT PRESENCE

	2009-10		2015-16		2017-18	
	<i>With</i>	<i>Without</i>	<i>With</i>	<i>Without</i>	<i>With</i>	<i>Without</i>
<i>Independent Variables:</i>						
Sch. student: teacher ratio	17.12	15.88	17.14	18.44	17.81	16.32
Sch. student mobility % (in/out)	17.96	14.84	15.62	14.48	13.87	12.60
Sch. urbanicity (ru- ral-to-urban; 1-4)	2.56	2.34	2.53	2.49	2.50	2.55
Sch. disorder report rate (per 100 students)	3.20	1.78	1.91	1.23	1.83	1.36
Sch. area crime scale (low-to-high; 1-3)	1.32	1.28	1.31	1.31	1.29	1.30
Sch. student enrollment	785.29	461.43	714.52	476.29	715.31	475.56
Elementary school (1 = yes)	0.35	0.73	0.45	0.74	0.47	0.75
Mand. sch. violent incid. rep. req. (1 = yes)	0.88	0.88	0.88	0.92	0.86	0.88
Mand. sch. non-vio. incid. rep. req. (1 = yes)	0.69	0.66	0.66	0.71	0.66	0.68
Sch. student poverty %	51.75	50.58	55.65	56.65	56.42	58.38
Sch. student nonwhite %	40.95	36.09	42.81	43.38	42.74	45.92
Sch. student Black %	17.37	12.28	13.35	11.56	14.83	11.39
Sch. student male %	48.14	49.56	49.54	49.86	50.27	50.55
Sch. dist. mean per pupil spend. (orig. \$s)	10,900	11,406	10,885	11,509	11,521	13,033
<i>N (unweighted)</i>	<i>1,360</i>	<i>1,070</i>	<i>1,270</i>	<i>620</i>	<i>1,740</i>	<i>760</i>

NOTES: Reported means derive from the SSOCs weighted sample.

SOURCES: U.S. Dept. Educ., Nat'l Ctr. Educ. Stat., 2009-10, 2015-16, and 2017-18 School Survey on Crime and Safety (SSOCs); U.S. Dept. Comm., Census Bureau, 2010, 2016, and 2018 Public Elementary-Secondary Education Finance Files.

D. Empirical Strategy

For each of the three time periods, we assessed the characteristics of schools (1) more likely to have any regular contact with law enforcement, and (2) that have regular contact with a greater magnitude of law enforcement officers. To assess the characteristics of schools more likely to have any regular contact with law enforcement, we employed a logistic regression model. Our dependent variable for this model was a dummy variable signaling whether a school had any SRO/police presence at least once a week. To assess the characteristics of schools that experience regular contact with a greater magnitude of law enforcement/SROs, we employed a multivariate regression model, inserting as our dependent variable the total number of SRO/law enforcement officers at a school.

In addition, to better understand the influence our variables exert in secondary school settings, we ran our regression models only on middle and high schools. This was particularly important to us because school officials might perceive higher concentrations of older African-American students as more threatening than higher concentrations of younger African-American students.

E. Data and Empirical Strategy Limitations

We acknowledge that research design limitations prevent us from drawing any firm causal inferences from our findings or determining causal direction with precision. For example, we understand that schools having more contact with law enforcement could have resulted from preexisting crime levels, disruption, or extraordinary past student disciplinary problems that we were unable to account for. Nevertheless, the SSOCs data allow us to exploit a rich array of variables to help us identify factors that may influence this relationship. And while our research design factors prevent us from making strong causal claims, we nonetheless maintain that our results contribute uniquely to the existing knowledge base on school crime and safety and the school-to-prison pipeline literature, particularly because no other researchers to our knowledge have examined these questions in such depth and in a longitudinal manner.

III. RESULTS AND DISCUSSION

As we explain above, both the percentage of traditional public schools having regular contact with law enforcement officers and the magnitude of that presence have significantly increased over the ten-year period nationwide.²⁸³ Yet, slightly less than half of these schools

283. See *supra* Table 1.

do not have a sustained law enforcement presence. The primary analytical focus areas of this Article are to better understand the characteristics of schools (1) more likely to have any regular contact with law enforcement officers, and (2) that experience regular contact with a greater magnitude of law enforcement officers. Comprehending the motivating forces behind this phenomenon is particularly important because prior research demonstrates that increased interaction with law enforcement may result in more student involvement with the justice system and poorer outcomes for youth.²⁸⁴

*A. Factors Influencing Regular Contact
with Any Law Enforcement*

We first estimated a logistic regression analysis to identify which school characteristics were most predictive of regular contact with any law enforcement in all traditional schools. The dependent variable for this model was a dummy variable signaling whether a school had any SRO/police presence at least once a week. We present the results of our analysis in Table 3 below.

284. See *supra* Section I.D.

TABLE 3: LOGISTIC REGRESSION MODELS OF WHETHER SCHOOL HAS ANY SRO/POLICE PRESENCE OVER TIME (ALL SCHOOLS)

	2009-10		2015-16		2017-18	
Sch. student:teacher ratio	1.00	(0.00)	0.98	(0.03)	1.00	(0.00)
Sch. student mobility % (in/out)	1.02**	(0.01)	1.01	(0.01)	1.01	(0.01)
Sch. urban. scale (rural-to-urban)	1.14	(0.08)	0.98	(0.07)	0.94	(0.07)
Sch. disorder report rate	1.03	(0.02)	1.02	(0.03)	0.99	(0.02)
Sch. area crime scale (lo-to-hi)	0.83	(0.13)	0.93	(0.14)	1.01	(0.13)
Sch. student enrollment	1.00**	(0.00)	1.00**	(0.00)	1.00**	(0.00)
Elementary school (1 = yes)	0.24**	(0.03)	0.40**	(0.06)	0.39**	(0.05)
Violent incident report req. (1 = yes)	0.78	(0.19)	0.56*	(0.15)	0.71	(0.16)
Non-violent incident report req. (1 = yes)	1.09	(0.19)	0.98	(0.17)	1.17	(0.20)
Sch. poverty %	1.01*	(0.00)	1.00	(0.00)	1.00	(0.00)
Sch. nonwhite %	0.99*	(0.00)	1.00	(0.00)	0.99**	(0.00)
Sch. Black %	1.01**	(0.00)	1.01	(0.00)	1.01**	(0.00)
Sch. male %	0.99	(0.01)	0.99	(0.01)	1.00	(0.01)
Sch. dist. mean per pupil spending	1.00	(0.00)	1.00	(0.00)	1.00*	(0.00)
Constant	0.37	(0.18)	2.03	(1.42)	1.81	(0.96)
Pseudo R ²	0.22		0.12		0.13	
<i>N</i> (unweighted)	2,370		1,890		2,480	

NOTES: The dependent variable is whether a school has any SRO/police. Robust standard errors, clustered on school district, in parentheses. The models were estimated using the “logistic” command in Stata (v.16.1) and used the odds ratio option and SSOCS weighted data. * $p < 0.05$; ** $p < 0.01$.

SOURCES: U.S. Dept. Educ., Nat’l Ctr. Educ. Stat., 2009-10, 2015-16, and 2017-18 School Survey on Crime and Safety (SSOCS); U.S. Dept. Comm., Census Bureau, 2010, 2016, and 2018 Public Elementary-Secondary Education Finance Files.

The results are telling. We begin with two factors that, despite their intuitive appeal and support in the normative literature,²⁸⁵ do not appear to carry as much force as one might presume: external threats of

285. See *supra* Section I.B.

harm and actual disorder in the school. Our conclusion that external threats of harm may not be a primary driver is based on two of our findings. First, school officials' perceptions of the crime level in the area where the school is located did not emerge as statistically significant at any point. Second, elementary schools were less likely than other schools to have regular contact with law enforcement officers. Because there is no logical reason to assume that elementary schools are better positioned to keep students safe from external threats than secondary schools, something other than perceived external threats most likely drives decisions to have a sustained law enforcement presence in schools.²⁸⁶

We do not mean to suggest, however, that highly publicized episodes of school violence have not contributed to the tightened intersection between law enforcement and schools. No doubt they have.²⁸⁷ In one survey sponsored by the U.S. Department of Justice several years ago, almost 25% of school principals surveyed nationwide indicated that "[n]ational media attention about school violence" was the primary reason for establishing their SRO program.²⁸⁸ Tragic episodes of school violence can galvanize parents and communities to demand that school authorities do more to protect children, and hiring SROs is a tangible way that school officials can demonstrate to the public that they are trying to make their schools safer.²⁸⁹ In fact, while elementary schools are less likely than secondary schools to have regular contact with law enforcement, we found that regular law enforcement contact with elementary schools increased from 2009-2010 to 2017-2018.²⁹⁰ Furthermore, in the wake of several high-profile school shootings, federal and state lawmakers have passed legislation dedicating additional funds designed to help schools bolster their security measures, which often includes money to hire SROs.²⁹¹ This funding most likely helped fuel the surge of SRO programs nationwide.²⁹² Our larger point, however, is that our data analyses suggest that threats of violence from external intruders do not appear to be a *direct* primary predictor of schools having regular contact with SROs, at least from a national perspective.

The second factor that, surprisingly, did not predict regular contact with law enforcement officers was a school's actual disorder report

286. See KUPCHIK, *supra* note 10, at 13-14 (theorizing that high-profile incidents of school violence are not the primary drivers of increased securitization in schools).

287. See, e.g., Viano et al., *supra* note 113, at 254-55.

288. TRAVIS & COON, *supra* note 121, at 84-85.

289. See KUPCHIK, *supra* note 10, at 28.

290. Our analyses of the SSOCS data reveal that during the 2009-2010 school year, approximately 21% of elementary schools had regular contact with law enforcement. During the 2015-2016 school year, approximately 38% had regular contact. And during the 2017-2018 school year, approximately 42% had contact.

291. See Viano et al., *supra* note 113, at 254-55.

292. See Gottfredson et al., *supra* note 1, at 905, 907-08.

rate, measured by indexing a school's total number of recorded disciplinary incidents (per 100 students). This finding is particularly interesting because a plausible justification for establishing a partnership with a law enforcement agency would be to address a current disorderly, unsafe learning environment.²⁹³ While we acknowledge that it is possible, though unclear, that a regular law enforcement presence may prevent disorder and violence from occurring in the first place,²⁹⁴ this finding suggests that relatively immediate threats of harm, danger, and disorder from within do not appear to influence decisions to have regular contact with police as much as one might expect.²⁹⁵

Instead, our analyses suggest that the primary drivers of sustained contact with law enforcement relate to, in some form or another, *perceived* (as opposed to actual) threats of disruption and violence by the students themselves. For example, school size is one of only two variables that emerged as statistically significant for each of the time periods, exerting an upward influence on the likelihood of sustained contact with law enforcement. Smaller learning communities better position school officials, teachers, and students to forge stronger personal bonds,²⁹⁶ which may lead to a greater sense of trust and lower degrees of perceived threat.²⁹⁷ In smaller schools, students, teachers, and school officials communicate more frequently and directly, school officials and teachers can address students' needs in a more personal manner, there is a greater sense of belonging, connectedness, and engagement, and there are higher degrees of cooperation between students and teachers.²⁹⁸ A smaller learning community also facilitates more parental involvement in schools.²⁹⁹

In larger schools, however, it may be more challenging for school officials and teachers to establish meaningful relationships with students and their parents, which may lead to a weaker school community, greater suspicion of students, and a higher degree of concern for potential disorder and disruption.³⁰⁰ Accordingly, school officials in larger school settings may be more inclined to establish partnerships with law enforcement agencies to help them control students and pre-

293. See TRAVIS & COON, *supra* note 121, at 84-85 (reporting that 17.5% of principals indicated that "[d]isorder problems" was the primary reason for establishing an SRO program).

294. See *supra* Section I.D.

295. See KUPCHIK, *supra* note 10, at 13 (theorizing that student crime and misbehavior are not driving increased securitization in schools).

296. See Slate & Jones, *supra* note 261, at 9; Cotton, *supra* note 261.

297. See Roger D. Goddard et al., *A Multilevel Examination of the Distribution and Effects of Teacher Trust in Students and Parents in Urban Elementary Schools*, 102 ELEMENTARY SCH. J. 3, 3-4 (2001).

298. See Gershenson & Langbein, *supra* note 264, at 137S; Slate & Jones, *supra* note 261, at 9; Cotton, *supra* note 261; Leithwood & Jantzi, *supra* note 264, at 475.

299. Gershenson & Langbein, *supra* note 264, at 137S.

300. See Cotton, *supra* note 261; Slate & Jones, *supra* note 261, at 9.

vent crime. They may also value having additional adults in the building whose primary duty is to preserve an orderly, secure environment.³⁰¹ Conversely, administrators at smaller schools may be better positioned to adequately monitor students and prevent wrongful student behavior on their own. It is also possible that administrators in smaller schools may eschew regular interaction with law enforcement officers because they perceive such interactions as potentially disrupting the positive learning environment they seek to foster.

A second finding that supports our theory that perceived threats of violence and disruption from students may drive decisionmaking is that elementary schools are less likely than secondary schools to have regular contact with law enforcement. We suspect that this finding emerged because school officials most likely perceive younger children to be less threatening, less dangerous, and less likely to engage in criminal behavior, which mitigates against the need to have a sustained law enforcement presence.³⁰²

The third finding that supports our theory is the most troubling. During the 2009-2010 and 2017-2018 school years, the concentration of African-American students in a school was a statistically significant predictor of regular contact with law enforcement, even after controlling for actual school disorder, perceptions of neighborhood crime, urbanicity, school size, per pupil spending, and other salient school characteristics. This suggests that the race of students alone may have influenced decisions to have a more sustained law enforcement presence in schools during that time period.

Because school officials might perceive older African-American students to be more threatening than younger African-American students,³⁰³ we narrowed our logistic regression model to traditional middle and high schools, excluding all elementary and combined schools.³⁰⁴ We present our findings in Table 4 below.

301. See CURRAN ET AL., *supra* note 121, at 27-28.

302. See NAT'L CTR. FOR EDUC. STAT., *supra* note 31 and accompanying text.

303. See Goff et al., *supra* note 226, at 529 (finding that "for every age group after the age of [nine] . . . Black children and adults were rated as significantly less innocent than White children and adults or children and adults generally").

304. A "combined" school includes "combinations of grades, including K-12." SAMANTHA NEIMAN & MONICA R. HILL, NAT'L CTR. FOR EDUC. STAT., U.S. DEP'T OF EDUC., CRIME, VIOLENCE, DISCIPLINE, AND SAFETY IN U.S. PUBLIC SCHOOLS: FINDINGS FROM THE SCHOOL SURVEY ON CRIME AND SAFETY: 2009-10, at 7 tbl.1 n.5 (2011).

TABLE 4: LOGISTIC REGRESSION MODELS OF WHETHER SCHOOL HAS ANY SRO/POLICE PRESENCE OVER TIME (MIDDLE AND HIGH SCHOOLS)

	2009-10		2015-16		2017-18	
Sch. student:teacher ratio	1.00	(0.00)	0.99	(0.00)	1.00	(0.00)
Sch. student mobility % (in/out)	1.01	(0.01)	1.01	(0.01)	1.00	(0.01)
Sch. urban. scale (rural-to-urban)	1.16*	(0.08)	1.12	(0.09)	1.10	(0.08)
Sch. disorder report rate	1.02	(0.02)	0.98	(0.02)	1.04	(0.03)
Sch. area crime scale (lo-to-hi)	0.93	(0.14)	1.16	(0.22)	1.03	(0.17)
Sch. student enrollment	1.00**	(0.00)	1.00**	(0.00)	1.00**	(0.00)
Vio. incident report req. (1 = yes)	1.42	(0.34)	0.79	(0.26)	0.43**	(0.11)
Non-vio. incident report req. (1 = yes)	0.79	(0.14)	0.63*	(0.13)	1.04	(0.19)
Sch. poverty %	1.00	(0.00)	1.00	(0.00)	1.00	(0.00)
Sch. nonwhite %	1.00	(0.00)	1.00	(0.00)	1.00	(0.00)
Sch. Black %	1.01**	(0.00)	1.01**	(0.00)	1.02**	(0.01)
Sch. male %	0.99	(0.01)	0.99	(0.01)	1.01	(0.01)
Sch. dist. mean per pupil spending	1.00	(0.00)	1.00	(0.00)	1.00**	(0.00)
Constant	0.44	(0.21)	1.58	(1.03)	1.29	(0.66)
Pseudo R ²	0.14		0.14		0.11	
<i>N</i> (unweighted)	1,670		1,360		1,790	

NOTES: The dependent variable is whether a school has any SRO/police. Robust standard errors, clustered on school district, in parentheses. The models were estimated using the “logistic” command in Stata (v.16.1) and used the odds ratio option and SSOCS weighted data. * $p < 0.05$; ** $p < 0.01$.

SOURCES: U.S. Dept. Educ., Nat’l Ctr. Educ. Stat., 2009-10, 2015-16, and 2017-18 School Survey on Crime and Safety (SSOCS); U.S. Dept. Comm., Census Bureau, 2010, 2016, and 2018 Public Elementary-Secondary Education Finance Files.

As Table 4 indicates, in secondary schools, the concentration of African-American students in schools is predictive of a sustained law enforcement presence during all three time periods. While this is a troubling finding, as we indicate in Part I, it is not inconsistent with the racial bias literature. Empirical studies consistently have documented that individuals, including educators, often associate African

Americans with danger, aggression, disorder, violence, and crime.³⁰⁵ In addition, the empirical studies suggest that individuals implicitly associate “racial spaces,” or areas populated with higher concentrations of African Americans, with crime, disorder, and danger.³⁰⁶

While school size, secondary schools, and the concentration of African-American students emerged as statistically significant most consistently in our models, other variables emerged as statistically significant less consistently. Among all schools, during the 2009-2010 school year, student mobility and student poverty exerted a positive influence on regular contact with law enforcement, while the concentration of nonwhite students in a school exerted a negative influence. During 2015-2016, curiously, whether a state had a statutory requirement to report students to law enforcement for a violent offense was negatively associated with a sustained law enforcement presence. During 2017-2018, school district spending was negatively associated with regular contact with law enforcement, meaning that schools within districts that spent less money per student were more likely to establish partnerships with law enforcement agencies. The concentration of nonwhite students also emerged as a negative predictor in 2017-2018. Among only secondary schools, urbanicity was positively associated with regular contact with law enforcement during 2009-2010. In 2017-2018, whether a state had a statutory requirement to report students to law enforcement for a violent offense and school district spending both exerted negative influences.

B. Factors Influencing Regular Contact with a Greater Magnitude of Law Enforcement

We employed a multivariate regression analysis to isolate which school characteristics were most predictive of regular contact with a greater magnitude of law enforcement officers in all traditional schools. The dependent variable for this model was a continuous variable assessing the total number of SROs or sworn police officers that had regular contact with a school. We present the results in Table 5 below.

305. *See supra* Section I.F.

306. *See supra* Section I.F.

TABLE 5: REGRESSION MODELS OF HOW MANY
SRO/POLICE AT SCHOOL OVER TIME (ALL SCHOOLS)

	<i>2009-10</i>		<i>2015-16</i>		<i>2017-18</i>	
Sch. student:teacher ratio	-0.00	(0.00)	-0.00	(0.00)	-0.00	(0.00)
Sch. student mobility % (in/out)	0.00	(0.00)	0.00	(0.00)	0.00	(0.00)
Sch. urban. scale (rural-to-urban)	0.03	(0.06)	0.10	(0.06)	0.03	(0.05)
Sch. disorder report rate	0.02	(0.01)	0.01	(0.01)	-0.00	(0.01)
Sch. area crime scale (lo-to-hi)	-0.13	(0.08)	0.15	(0.11)	0.01	(0.07)
Sch. student enrollment	0.00**	(0.00)	0.00**	(0.00)	0.00**	(0.00)
Elementary school (1 = yes)	-0.60**	(0.11)	-0.77**	(0.17)	-0.66**	(0.15)
Vio. incident report req. (1 = yes)	-0.23*	(0.10)	0.00	(0.12)	-0.22	(0.15)
Non-vio. incident report req. (1 = yes)	0.18**	(0.07)	0.08	(0.11)	0.09	(0.09)
Sch. poverty %	0.00	(0.00)	-0.00	(0.00)	0.00	(0.00)
Sch. nonwhite %	0.00	(0.00)	-0.00	(0.00)	-0.00*	(0.00)
Sch. Black %	0.01*	(0.00)	0.00	(0.00)	0.01	(0.00)
Sch. male %	-0.00	(0.00)	0.00	(0.01)	0.00	(0.00)
Sch. dist. mean per pupil spending	-0.00*	(0.00)	0.00	(0.00)	0.00	(0.00)
Constant	0.85*	(0.37)	0.29	(0.50)	0.67	(0.41)
Pseudo R ²	0.05		0.04		0.04	
<i>N (unweighted)</i>	2,370		1,890		2,480	

NOTES: The dependent variable is the total number of SROs/police officers at a school. Robust standard errors, clustered on school district, in parentheses. The models were estimated using the “reg” command in Stata (v.16.1) and SSOCS weighted data. * $p < 0.05$; ** $p < 0.01$.

SOURCES: U.S. Dept. Educ., Nat’l Ctr. Educ. Stat., 2009-10, 2015-16, and 2017-18 School Survey on Crime and Safety (SSOCS); U.S. Dept. Comm., Census Bureau, 2010, 2016, and 2018 Public Elementary-Secondary Education Finance Files.

Consistent with our findings associated with having any regular contact with law enforcement, our analyses suggest that external threats of harm also do not drive decisions related to the magnitude of a sustained law enforcement presence. School officials’ perceptions of the crime level in the area where the school is located did not emerge

as statistically significant at any point, and elementary schools exerted a downward influence on the magnitude of regular law enforcement presence at each time period.³⁰⁷ Furthermore, once again, actual disorder did not emerge as a significant predictor.

School size, however, emerged as a statistically significant upward influence across all time periods, providing additional support for our theory that perceived threat of disruption and violence by the students themselves drives decisionmaking in this area. The concentration of African-American students emerged as statistically significant only during 2009-2010.

In addition, during the 2009-2010 school year, school district spending exerted a downward influence, and statutory reporting requirements surfaced as statistically significant, with violent incident reporting requirements exerting a negative influence and non-violent incident reporting requirements exerting a positive influence. Also, during the 2017-2018 school year, the percentage of nonwhite students emerged as a downward influence on the magnitude of regular law enforcement presence.

To be consistent, we also narrowed our multivariate regression model to only traditional middle and high schools as we did in our prior models. We present those findings in Table 6 below.

307. As we explained in Section III.A, because there is no logical reason to assume that elementary schools are less vulnerable to external threats than secondary schools, something other than external threats must be the primary driver of the magnitude of a sustained law enforcement presence.

TABLE 6: REGRESSION MODELS OF HOW MANY SRO/POLICE
AT SCHOOL OVER TIME (MIDDLE AND HIGH SCHOOLS)

	2009-10		2015-16		2017-18	
Sch. student:teacher ratio	-0.00	(0.00)	-0.00	(0.00)	-0.00*	(0.00)
Sch. student mobility % (in/out)	-0.00	(0.01)	-0.00	(0.01)	0.01	(0.01)
Sch. urban. scale (rural-to-urban)	0.11	(0.16)	0.25	(0.14)	-0.01	(0.10)
Sch. disorder report rate	-0.01	(0.01)	-0.01	(0.02)	-0.00	(0.02)
Sch. area crime scale (lo-to-hi)	-0.05	(0.15)	0.41	(0.29)	0.03	(0.16)
Sch. student enrollment	0.00**	(0.00)	0.00	(0.00)	0.00**	(0.00)
Vio. incident report req. (1 = yes)	-0.38	(0.23)	0.29	(0.28)	-0.45	(0.37)
Non-vio. incident report req. (1 = yes)	0.42*	(0.16)	0.05	(0.30)	0.06	(0.18)
Sch. poverty %	0.00	(0.00)	0.00	(0.01)	0.00	(0.00)
Sch. nonwhite %	0.01	(0.01)	-0.01	(0.01)	-0.00	(0.00)
Sch. Black %	0.00	(0.01)	0.01	(0.00)	0.01	(0.01)
Sch. male %	0.00	(0.01)	0.02*	(0.01)	0.01	(0.01)
Sch. dist. mean per pupil spending	-0.00**	(0.00)	0.00	(0.00)	0.00	(0.00)
Constant	0.93	(0.65)	-1.44	(1.24)	-0.09	(1.06)
Pseudo R ²	0.02		0.02		0.02	
<i>N</i> (unweighted)	1,670		1,360		1,790	

NOTES: The dependent variable is the total number of SROs/police officers at a school. Robust standard errors, clustered on school district, in parentheses. The models were estimated using the “reg” command in Stata (v.16.1) and SSOCS weighted data. * $p < 0.05$; ** $p < 0.01$.

SOURCES: U.S. Dept. Educ., Nat’l Ctr. Educ. Stat., 2009-10, 2015-16, and 2017-18 School Survey on Crime and Safety (SSOCS); U.S. Dept. Comm., Census Bureau, 2010, 2016, and 2018 Public Elementary-Secondary Education Finance Files.

Although this analysis revealed fewer consistent patterns, it did reveal that external threats of harm, once again, did not appear to drive decisionmaking. School officials’ perceptions of school area crime did not emerge as statistically significant. Similarly, actual disorder did not emerge as significant. School size, on the other hand, exerted an upward influence in both 2009-2010 and 2017-2018, but not in 2015-2016. In 2009-2010, school district spending exerted a negative influence, and non-violent statutory reporting requirements emerged as a

positive predictor. In 2015-2016, the percentage of male students exerted an upward influence on magnitude, and in 2017-2018, student-teacher ratio exerted a negative influence.

C. Contextualizing Our Empirical Findings

Identifying and understanding the forces that influence decisions to have sustained contact with law enforcement are critical because law enforcement officers play a pivotal role, if not the paramount role, in the school-to-prison pipeline.³⁰⁸ Indeed, school officials' decisions to invite law enforcement into schools can—and do—have significant legal and policy ramifications for students. As we explained previously, some law enforcement officers treat routine student disciplinary issues as criminal offenses,³⁰⁹ and the law permits them to handle such events in this fashion.³¹⁰ Furthermore, empirical studies repeatedly confirm a strong association between regular contact with law enforcement and the increased rate at which schools report students to law enforcement for committing various disciplinary acts, including many lower-level offenses.³¹¹ Observational data reveal that some SROs encourage educators to apply heightened punishment for student offenses, and some educators begin to rely on SROs to intervene in disciplinary situations that they are better situated to handle themselves.³¹² If some of the forces that drive more contact with law enforcement can be counteracted and neutralized, it might lead to better outcomes for many youth nationwide. This is especially important because some of the forces we may have identified appear to be misguided, unfounded, and illegitimate.³¹³

In this Section, we situate our findings in the broader school-to-prison pipeline context. We also identify areas that warrant additional research.

1. Perceived Internal Threats, School Climate, and School Size

While our findings raise additional questions about the underlying forces that drive decisions to put more police officers in schools, they also bring into sharper focus those forces that appear to exert more influence and those that exert less. In short, our analyses suggest that perceived external threats and actual school disorder are less influential than one might presume. They also suggest, in one form or another, that perceived internal threats of disruption from the stu-

308. See *supra* Part I.

309. See *supra* Section I.C.

310. See *supra* Section I.C.

311. See *supra* Section I.C.

312. See *supra* Section I.C.

313. See *supra* Sections III.A-B.

dents themselves may be primary drivers of decisions to develop partnerships with law enforcement agencies. Addressing *perceived* threats of violence and disorder from students by establishing relationships with law enforcement may not be warranted, especially if there is no evidence of actual disorder in a school and the consequences of a sustained law enforcement presence are so detrimental.

One possible avenue to combat these negative trends is to support the development of healthy school climates and stronger relationships among members of the school community.³¹⁴ Developing a healthy school climate and robust relationships builds trust and may reduce educators' sense of threat, danger, and suspicion of students.³¹⁵ Doing so may also help divert educators' attention away from relying on police to maintain order and redirect their focus to implementing positive, evidence-based practices that lead to stronger student outcomes.³¹⁶

Importantly, building a healthy school climate and fostering stronger relationships not only can reduce the *perceived* need to rely on law enforcement, but it may reduce the *actual* need as well. A positive school climate is associated with lower student risk behavior, reduced aggression and violence, and less sexual harassment.³¹⁷ Relatedly, positive student-teacher relationships are associated with lower levels of student behavior problems.³¹⁸ Following the horrific shootings at Columbine High School, the U.S. Secret Service and U.S. Department of Education jointly studied effective practices to prevent school violence.³¹⁹ These agencies concluded that strengthening a school's climate by providing emotional support, cultivating respect, fostering positive relationships among educators and students, and paying attention to students' social, academic, and emotional needs were central to creating a safe school environment.³²⁰ Similarly, Matthew Steinberg, Elaine Allensworth, and David Johnson conducted a

314. See, e.g., Thapa et al., *supra* note 177, at 357-60; Osterman, *supra* note 265, at 323-24.

315. See Goddard et al., *supra* note 297, at 3-4.

316. CTRS. FOR DISEASE CONTROL & PREVENTION, U.S. DEP'T OF HEALTH & HUM. SERVS., FOSTERING SCHOOL CONNECTEDNESS: IMPROVING STUDENT HEALTH AND ACADEMIC ACHIEVEMENT 1 (2009).

317. Thapa et al., *supra* note 177, at 361-62; see also Jonathan Cohen et al., *School Climate: Research, Policy, Practice, and Teacher Education*, 111 TCHRS. COLL. REC. 180, 185 (2009); Stephen Brand et al., *A Large Scale Study of the Assessment of the Social Environment of Middle and Secondary Schools: The Validity and Utility of Teachers' Ratings of School Climate, Cultural Pluralism, and Safety Problems for Understanding School Effects and School Improvement*, 46 J. SCH. PSYCH. 507, 509 (2008).

318. Thapa et al., *supra* note 177, at 363.

319. See ROBERT A. FEIN ET AL., U.S. SECRET SERV. & U.S. DEP'T OF EDUC., THREAT ASSESSMENT IN SCHOOLS: A GUIDE TO MANAGING THREATENING SITUATIONS AND TO CREATING SAFE SCHOOL CLIMATES ii, 3 (2004).

320. *Id.* at 5-6, 11-12; see also BARBARA FEDDERS ET AL., SCHOOL SAFETY IN NORTH CAROLINA: REALITIES, RECOMMENDATIONS & RESOURCES 6 (2013).

comprehensive study of school safety in the Chicago Public School System.³²¹ They concluded that the most defining quality of a safe school is “the quality of relationships between staff and students and between staff and parents.”³²²

Cultivating a healthy school climate and strengthening relationships is also associated with many other positive outcomes. For example, it leads to higher academic achievement, improved graduation rates, lower rates of absenteeism, fewer substance abuse issues, lower rates of suspension, improved physical and mental health outcomes, and a higher motivation for learning, all of which can promote safer learning environments.³²³

In 2014, the U.S. Department of Education emphasized these principles in connection with developing a safe learning climate (and should do so again),³²⁴ but federal and state governments should do more. Our children may be much better served if federal and state governments cut back on funding designed to support SRO programs and increase funding to support the establishment of healthy school climates and strong relationships. They should also provide expertise and promote evidence-based research to help schools understand and apply these important principles.

Relatedly, our findings reveal a connection between school size and increased reliance on law enforcement.³²⁵ Prior empirical studies also document that school size is associated with higher rates of referrals to law enforcement for committing various offenses.³²⁶ While more research is needed to draw more concrete conclusions, these findings suggest that school officials in smaller schools are less likely to perceive a need (or have an actual need) to establish partnerships with law enforcement agencies. Smaller learning communities facilitate the creation of stronger personal relationships among school officials, teachers, and parents.³²⁷ They may also facilitate the development of healthier school climates because they are associated with higher levels of satisfaction, a stronger sense of belonging, reduced alienation,

321. MATTHEW P. STEINBERG ET AL., UNIV. CHI. URB. EDUC. INST., STUDENT AND TEACHER SAFETY IN CHICAGO PUBLIC SCHOOLS: THE ROLES OF COMMUNITY CONTEXT AND SCHOOL SOCIAL ORGANIZATION 1 (2011).

322. *Id.*

323. See Astor et al., *supra* note 177, at 2, 9, 11; Thapa et al., *supra* note 177, at 359-60.

324. See GUIDING PRINCIPLES, *supra* note 129, at 5-11.

325. See *supra* Tables 3, 4, 5 & 6.

326. See Heise & Nance, *supra* note 3, at 758, 760, 763, 767; Heise & Nance, *supra* note 256, at 261.

327. See Slate & Jones, *supra* note 261, at 9; Cotton, *supra* note 261.

higher degrees of engagement, fewer behavioral problems, higher levels of self-esteem, and positive attitudes toward school.³²⁸ Furthermore, they are connected to heightened academic achievement, stronger attendance patterns, higher graduation rates, lower drug and alcohol abuse, and more engagement with extracurricular activities.³²⁹ All of these outcomes can foster healthier relationships and reduce feelings of distrust and threat, thereby reducing desires for tighter measures of student control and engagement with law enforcement agencies.

Federal and state legislatures and agencies can do much more to promote the formation of smaller learning communities. Instead of expending funds to support SRO programs and other criminal justice-oriented measures, they can provide resources designed to further these efforts. While the research is still developing, they can help larger schools create “schools-within-schools” or divide up students into “houses,” whereby all of the “house members” take all of their courses with the same teachers.³³⁰ Such initiatives show promise and provide benefits far beyond school-to-prison pipeline concerns.³³¹

2. *The Connection Between Race and the Use of Law Enforcement in Schools*

A second important but troubling finding is that the concentration of African-American students predicted a sustained law enforcement presence for all school levels in 2009-2010 and 2017-2018, and it predicted a sustained police presence in secondary schools for all three time periods. This finding is consistent with the body of research documenting that race may unduly affect decisions associated with punitive school discipline and the implementation of tight security measures designed to control students.³³² Many studies show that individuals implicitly associate African Americans with danger, crime, and violence, and such implicit perceptions can skew decisionmaking.³³³ Furthermore, empirical studies suggest that individuals implicitly associate spaces populated with high concentrations of African Americans with disorder, crime, danger, and violence.³³⁴ Relative to the education context, researchers have observed that schools with

328. See AN OVERVIEW OF SMALLER LEARNING COMMUNITIES, *supra* note 35, at 10-14; Gershenson & Langbein, *supra* note 264, at 137S; Slate & Jones, *supra* note 261, at 9; Cotton, *supra* note 261; Leithwood & Jantzi, *supra* note 264, at 475.

329. See AN OVERVIEW OF SMALLER LEARNING COMMUNITIES, *supra* note 35, at 10-14; Slate & Jones, *supra* note 261, at 9; Cotton, *supra* note 261; Leithwood & Jantzi, *supra* note 264, at 475.

330. AN OVERVIEW OF SMALLER LEARNING COMMUNITIES, *supra* note 35, at 5-8.

331. *Id.*

332. See *supra* Section I.E.

333. See *supra* Section I.F.

334. See *supra* Section I.F.

higher concentrations of racial minorities are more likely to implement criminal justice-oriented security measures than other schools, even after controlling for school crime, school disorder, perceptions of neighborhood crime, and other school characteristics.³³⁵

Our findings related to race and the use of law enforcement in schools also may clarify the mixed results produced in various studies on race, referrals to law enforcement, and school-based arrests. As we explained in Part I, the relationship between race, student discipline, and referrals to law enforcement is highly complex. Racial disparities tend to be more pronounced for offenses that require decisionmakers to subjectively characterize behavior, such as disruption, defiance, and disrespect.³³⁶ Conversely, racial disparities are less common for objectively defined offenses that require less characterization, such as physical altercations, possession of illegal drugs or alcohol, vandalism, and truancy.³³⁷ Because objectively defined offenses are the bases for most referrals to law enforcement, it follows that we should observe fewer racial disparities related to law enforcement referrals.

Consistent with this theory, the available research suggests that, at the school level, there are fewer distributional concerns related to referrals to law enforcement.³³⁸ For example, in our own research, we found that at the school level, the concentration of African Americans was not connected to the rate at which school officials referred students to law enforcement for engaging in various disciplinary offenses.³³⁹ Yet, several empirical studies examining data from national and state perspectives show that African Americans are significantly overrepresented with respect to law enforcement referrals and school-based arrests.³⁴⁰ Our current study may reconcile these seemingly contradictory outcomes. Specifically, our findings suggest that schools with higher concentrations of African-American students were more likely to have regular contact with law enforcement.³⁴¹ If (1) regular contact with law enforcement leads to more law enforcement referrals,³⁴² and (2) schools with higher concentrations of African Americans were more likely to have regular contact with law enforcement, one logical outcome is that African Americans will be overrepresented in referrals to law enforcement and school-based arrests

335. See *supra* Section I.E.1.

336. See *supra* Section I.E.2.

337. See *supra* Section I.E.2.

338. See Heise & Nance, *supra* note 3, at 757; Nance, *supra* note 3, at 973.

339. See Heise & Nance, *supra* note 3, at 757.

340. See *supra* notes 214-15.

341. See *supra* Section III.A.

342. See *supra* Section I.D.

at state and national levels. And this will hold true even though the objectively based offenses for which the referrals to law enforcement are based normally do not lead to racial inequalities at the school level.³⁴³

But setting that aside, our findings add to the overwhelming body of evidence demonstrating that structural inequalities exist in our public schools—leading to many troubling outcomes for students of color.³⁴⁴ Indeed, that race alone may have influenced decisions at any point to forge partnerships with law enforcement agencies underscores the longstanding need for federal and state legislative support to address racial inequalities within our education system.³⁴⁵

At a minimum, these findings should justify an investment of financial support to further investigate this issue using both quantitative and qualitative methodologies in more focused and controlled settings. Further study is also warranted because of the emergence of additional forces that may affect schools' propensities to create new or strengthen existing partnerships with law enforcement agencies, scale back such partnerships, or eliminate them altogether. As we discussed above, the death of George Floyd and others have motivated some school districts to reassess their relationships with law enforcement agencies.³⁴⁶ On the other hand, recent highly publicized shootings in Florida, Texas, and Maryland have propelled additional legislative, social, and financial backing for SRO programs.³⁴⁷ It is unclear what overall effect these new forces will have on law enforcement presence in schools and whether the race of students will influence school officials' decisions to create partnerships with law enforcement agencies.

CONCLUSION

The growing presence of law enforcement officers in schools has shifted the educational landscape, but not for all students. Just over half of our nation's schools experience regular contact with law enforcement, and just under half does not. While it is less clear that a sustained law enforcement presence contributes to the formation of a safe school environment, it is more established that regular interaction is connected to a greater likelihood that schools will refer students to law enforcement for engaging in disciplinary acts. Because

343. See *supra* Section I.E.2.

344. See generally LINDA DARLING-HAMMOND, *THE FLAT WORLD AND EDUCATION: HOW AMERICA'S COMMITMENT TO EQUITY WILL DETERMINE OUR FUTURE* (2010); see also Nance, *supra* note 86, at 815-16.

345. See Nance, *supra* note 86, at 831-36.

346. See *supra* note 114 and accompanying text.

347. See *supra* notes 115-17 and accompanying text.

involvement in the criminal justice system leads to serious negative outcomes for children, it is imperative to better understand the underlying forces that motivate school officials to establish partnerships with law enforcement agencies.

Our empirical findings suggest that regular contact with law enforcement is less influenced by factors one might assume drive these decisions and that are supported in the normative literature. These factors include actual school disorder and perceived external threats. Instead, our analyses suggest that factors related to perceived internal threats from students are the primary predictors. Our findings raise concerns because some of these predictors indicating threat may not be warranted or are altogether illegitimate. This includes our finding that the concentration of African-American students in a school may have influenced these decisions.

Our proposed approaches to address these issues center around the formation of healthy school climates and strengthening relationships between school officials, teachers, students, and parents. Forging strong school climates and relationships will reduce distrust and perceived threats. It may also redirect school officials' focus away from criminal justice-oriented measures.

In addition, we acknowledge that our findings lead to more questions than provide affirmative answers. We encourage further exploration into the motivating forces behind decisions to have more regular contact with law enforcement officers because these decisions have such significant legal and policy implications for students. It is especially important to better understand the influence of race. Studies in smaller settings employing both qualitative and quantitative methodologies have the potential to bring into sharper focus the forces that influence school officials' decisions to invite law enforcement officers to have a sustained presence on their campuses.

