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Rethinking Law Enforcement Officers in Schools

Jason P. Nance*

INTRODUCTION

A recent event that occurred in a South Carolina classroom illustrates why there should be concern about assigning law enforcement officers to work in public schools. In October of 2015, a teacher called a law enforcement officer into a classroom to handle a student behavior problem.¹ A female student was using a cell phone in violation of school rules.² Other students in the classroom captured what happened next by video.³ The videos show that when the student refused to exit the classroom, the officer grabbed her by the neck, flipped her and her desk to the floor, and then forcibly dragged her across the classroom to restrain and arrest her.⁴

This event was not an isolated incident of a law enforcement officer, sometimes referred to as a school resource officer (“SRO”), mishandling a student discipline problem. Indeed, evidence of law enforcement officers mishandling student disciplinary problems abound.⁵ These incidents alone should give us pause. However, this Essay presents below a simple cost-benefit analysis of SRO programs that I hope will be used by policymakers, school officials, parents, and members of our community to evaluate whether law enforcement officers belong in schools at all.

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¹ See Emma Brown, *Police in Schools: Keeping Kids Safe, or Arresting Them for No Good Reason?*, WASH. POST (Nov. 8, 2015), https://www.washingtonpost.com/local/education/police-in-schools-keeping-kids-safe-or-arresting-them-for-no-good-reason/2015/11/08/937ddfd0-816c-11e5-9afb-0c971f713d0c_story.html.

² *Id.*

³ *Id.*

⁴ See Valerie Bauerlein & Zusha Elinson, *Role of School Police Officers Questioned*, WALL ST. J. (Oct. 28, 2015, 8:22 PM), <http://www.wsj.com/articles/role-of-school-police-officers-questioned-1446076813>.

⁵ See, e.g., U.S. DEP’T OF JUSTICE, CIVIL RIGHTS DIV., INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT 37–38 (2015); SHAKTI BELWAY, ACCESS DENIED: NEW ORLEANS STUDENTS AND PARENTS IDENTIFY BARRIERS TO PUBLIC EDUCATION 4, 6, https://www.splcenter.org/sites/default/files/d6_legacy_files/downloads/publication/SPLC_report_Access_Denied.pdf.

I. THE MOVEMENT TOWARDS AN INCREASED LAW ENFORCEMENT PRESENCE IN SCHOOLS

The concept of an SRO began during the 1950s, but SROs were fairly uncommon until recently.⁶ While there were fewer than one hundred SROs stationed in public schools in the late 1970s,⁷ by 1997 there were approximately 12,300 SROs nationwide.⁸ In 2003, that number increased to 19,900.⁹ It is difficult to know exactly how many SROs are in schools today, but the National Center for Education Statistics estimates that this number could be as high as 30,000.¹⁰

The increased presence of law enforcement officers in schools has risen parallel to and in connection with a movement to criminalize school discipline and social problems generally.¹¹ Faced with rising juvenile crime rates from the mid-1980s to the mid-1990s and several high profile incidents of school violence such as the Columbine and Sandy Hook shootings, many lawmakers and school officials over the years have felt pressure to demonstrate to the public that they are taking concrete measures to create safe learning environments for children.¹² But instead of hiring more teachers, counselors, and mental health specialists, or implementing programs to address the underlying issues relating to school violence, some lawmakers and school officials have embraced heavy-handed measures to maintain order and control in their buildings.¹³ For example, many

⁶ See U.S. DEP'T OF JUSTICE, SCHOOL RESOURCE OFFICER TRAINING PROGRAM 1 (2001), <https://www.ncjrs.gov/pdffiles1/ojjdp/fs200105.pdf>.

⁷ Paul J. Hirschfield & Katarzyna Celinska, *Beyond Fear: Sociological Perspectives on the Criminalization of School Discipline*, 5 SOC. COMPASS 1, 1 (2011).

⁸ NATHAN JAMES & GAIL MCCALLION, CONG. RESEARCH SERV., R43126, SCHOOL RESOURCE OFFICERS: LAW ENFORCEMENT OFFICERS IN SCHOOLS 19 (2013).

⁹ *Id.*

¹⁰ See LUCINDA GRAY, LAURIE LEWIS & JOHN RALPH, PUBLIC SCHOOL SAFETY AND DISCIPLINE: 2013–14, at 11 (2015).

¹¹ See Donna M. Bishop & Barry C. Feld, *Juvenile Justice in the Get Tough Era*, in 6 ENCYCLOPEDIA OF CRIMINOLOGY AND CRIMINAL JUSTICE 2766, 2770 (Gerben Bruinsma & David Weisburd eds., 2014).

¹² *Id.* at 2768; see also Kevin P. Brady et al., *School–Police Partnership Effectiveness in Urban Schools: An Analysis of New York City’s Impact Schools Initiative*, 39 EDUC. & URB. SOC’Y 455, 456 (2007); Henry A. Giroux, *Racial Injustice and Disposable Youth in the Age of Zero Tolerance*, 16 INT’L J. QUALITATIVE STUD. EDUC. 553, 561 (2003) (highlighting the “litany of absurdities” that resulted out of school officials embracing strict enforcement of “zero-tolerance policies” in the 1990s); Paul J. Hirschfield, *Preparing for Prison? The Criminalization of School Discipline in the USA*, 12 THEORETICAL CRIMINOLOGY 79, 82 (2008) (recognizing how, following the Gun-Free Schools Act of 1994, “a large majority of school districts . . . adopted ‘zero tolerance’ policies for alcohol, tobacco, drugs[,] and violence”).

¹³ See Brady et al., *supra* note 12, at 457; Hirschfield, *supra* note 12, at 91.

decisionmaking bodies have adopted zero-tolerance policies that result in more student suspensions and expulsions,¹⁴ passed laws that require schools to refer students to law enforcement for committing certain offenses,¹⁵ and allocated funds for schools to purchase strict surveillance measures (i.e., metal detectors, surveillance cameras, and locked gates) and to hire law enforcement officers to patrol school campuses.¹⁶

II. A COST-BENEFIT ANALYSIS OF HAVING LAW ENFORCEMENT OFFICERS IN SCHOOLS

The assumed primary benefit of having an increased law enforcement presence in schools is to promote a safe environment for students and educators.¹⁷ However, as documented in a recent Congressional Research Service Report,

[T]he body of research on the effectiveness of SRO programs is noticeably limited, both in terms of the number of studies published and the methodological rigor of the studies conducted. The research that is available draws conflicting conclusions about whether SRO programs are effective at reducing school violence. In addition, the research does not address whether SRO programs deter school shootings, one of the key reasons for renewed congressional interest in these programs.¹⁸

Thus, while seeing police officers in schools may help some feel that

¹⁴ Zero-tolerance policies require that educators apply predetermined consequences, most of which are quite severe, for committing certain offenses without regard to the circumstances surrounding the offense. See Am. Psychological Ass'n Zero Tolerance Task Force, *Are Zero Tolerance Policies Effective in the Schools?*, 63 J. AM. PSYCHOL. ASS'N 852, 852 (2008).

¹⁵ See Jason P. Nance, *Students, Police, and the School-to-Prison Pipeline*, 93 WASH. U.L. REV. 919, 933 (2016).

¹⁶ For example, under the U.S. Department of Justice's Community Oriented Policing Service ("COPS") program and the Safe-Free Schools and Communities Act, the federal government has provided millions of dollars to schools for law enforcement, surveillance cameras, metal detectors, and other security measures in schools. See 20 U.S.C. § 7115(b)(2)(E)(ii), (vi) (2012); U.S. DEP'T OF JUSTICE, OFFICE OF CMTY. ORIENTED POLICING SERVS., 2011 SECURE OUR SCHOOLS PROGRAM, <http://www.cops.usdoj.gov/pdf/2011AwardDocs/CSPP-SOS-CHP/SOSMethodology.pdf>.

¹⁷ See JAMES & MCCALLION, *supra* note 8, at 3–4.

¹⁸ *Id.* at 10–11; see also BARBARA RAYMOND, U.S. DEP'T OF JUSTICE, OFFICE OF CMTY. ORIENTED POLICING SERVS., *ASSIGNING POLICE OFFICERS TO SCHOOLS* 8 (2010) (reporting that studies measuring SRO effectiveness in reducing school violence have mixed results and acknowledging that some studies that report positive results rely on perceptions of safety rather than objective evidence, and other studies reporting positive results have not allowed researchers to conclude whether the reduction in crime and violence results from SRO programs or from other factors).

children are safer, in reality, how effective SROs programs are at promoting school safety is far from clear.

However, the costs of SRO programs are substantial on a number of fronts. As an initial matter, SRO programs are expensive. The average minimum salary for an entry-level police officer is \$32,412,¹⁹ but the costs are significantly higher for police officers with more experience.²⁰ School districts could use these funds to support more effective initiatives to foster safe learning environments.²¹

But there are less obvious costs to SRO programs that are even more significant. First, putting police officers in schools, especially when they mistreat students, can harm the learning climate by alienating students and generating mistrust,²² which, perhaps counterintuitively, can lead to more disorder and violence.²³

Second, empirical studies indicate that SRO programs contribute to the so-called “school-to-prison pipeline”²⁴ by unnecessarily involving students in the justice system, which can have a severe negative impact on the lives of students and their families.²⁵ My recent empirical study of data from hundreds of public schools gathered by the U.S. Department of Education

¹⁹ JAMES & MCCALLION, *supra* note 8, at 20.

²⁰ For example, according to the Bureau of Labor Statistics, the mean annual salary for police and sheriff’s patrol officers in 2014 was \$59,560. Bureau of Labor Statistics, *Occupational Employment and Wage, May 2014*, U.S. DEP’T OF LABOR, <http://www.bls.gov/oes/2014/may/oes333051.htm> [<https://perma.cc/BX4C-ZFUB>] (last visited Oct. 4, 2016).

²¹ See, e.g., Guilford Cty. Bd. of Educ., *Board Meeting Minutes, February 8, 2007*, GUILFORD CTY. SCHS. (Mar. 13, 2007), http://www.gcsnc.com/pages/gcsnc/District/Board_of_Education_-_Group/Meeting_Materials/2007_Meeting_Materials/Board_Meeting_-_March_13_2007/Documents/Board_Meeting_Minutes_Februar; see also *infra* notes 41–48 and accompanying text.

²² See *Ending the School-to-Prison Pipeline: Hearing Before the Subcomm. on the Constitution, Civil Rights, & Human Rights of the S. Comm. on the Judiciary*, 112th Cong. 25–26, 105–110 (2012) (statement and written testimony of Edward Ward, Blocks Together, Dignity in Schools Campaign), <https://www.gpo.gov/fdsys/pkg/CHRG-112shrg86166/pdf/CHRG-112shrg86166.pdf> (testifying that his school environment was “very tense,” “antagonizing,” and “dishearten[ing]” because his school was full of SROs who mistreated them); Randall R. Beger, *The “Worst of Both Worlds”: School Security and the Disappearing Fourth Amendment Rights of Students*, 28 CRIM. JUST. REV. 336, 338 (2003).

²³ Nance, *supra* note 15, at 949 n.145.

²⁴ The term “school-to-prison pipeline” denotes the trend of referring students directly to law enforcement for committing certain offenses at school or of creating conditions under which it is more likely that students will become involved in the criminal justice system such as suspending or expelling them from school. See *Hawker v. Sandy City Corp.*, 774 F.3d 1243, 1245 (10th Cir. 2014) (Lucero, J., concurring) (quoting Jason P. Nance, *School Surveillance and the Fourth Amendment*, 2014 WIS. L. REV. 79, 83).

²⁵ See Nance, *supra* note 15, at 954–56.

reveals that a police officer's regular presence at a school is predictive of greater odds that school officials will refer students to law enforcement for lower-level offenses that arguably should be handled by educators themselves.²⁶ These lower-level offenses include fighting without a weapon, threats without a weapon, theft, and vandalism.²⁷ Importantly, these findings hold true even after taking into account general levels of criminal activity and disorder in schools; school officials' perceptions of neighborhood crime; and state statutes that require schools to refer students to law enforcement for committing certain offenses.²⁸ Other empirical studies on different datasets also have confirmed this alarming trend.²⁹

Furthermore, although not clear from the U.S. Department of Education data, other evidence exists demonstrating that SROs themselves arrest students on their own accord for routine discipline matters,³⁰ even over the objection of school officials or teachers.³¹ Indeed, SROs apparently are authorized to intervene in student disciplinary matters because most, if not all, states have criminal laws prohibiting assault, larceny, disorderly conduct, or disturbing the peace.³² In fact, some state legislatures have passed statutes explicitly criminalizing talking back to a teacher or disrupting school activities.³³ Thus, if a student yells at or

²⁶ See *id.* at 975–76.

²⁷ *Id.*

²⁸ *Id.*

²⁹ See Chongmin Na & Denise C. Gottfredson, *Police Officers in Schools: Effects on School Crime and the Processing of Offending Behavior*, 30 JUST. Q. 619, 640 (2013); Matthew T. Theriot, *School Resource Officers and the Criminalization of Student Behavior*, 37 J. CRIM. JUST. 280, 282–85 (2009); Mario S. Torres Jr. & Jacqueline A. Stefkovich, *Demographics and Police Involvement: Implications for Student Civil Liberties and Just Leadership*, 45 EDUC. ADMIN. Q. 450, 461–63 (2009); Emily G. Owens, *Testing the School-to-Prison Pipeline* 29–30 (Univ. of Pa. Working Paper No. 2015-5.1, 2015).

³⁰ See, e.g., U.S. DEP'T OF JUSTICE, *supra* note 5, at 37 (concluding that Ferguson, Missouri police officers treated “routine discipline issues [involving students] as criminal matters”).

³¹ See U.S. DEP'T OF JUSTICE, OFFICE OF CMTY. ORIENTED POLICING SERVS., A GUIDE TO DEVELOPING, MAINTAINING, AND SUCCEEDING WITH YOUR SCHOOL RESOURCE OFFICER PROGRAM 51 (2005) (citing an example where an SRO threatened to arrest a principal for interfering with a police officer in the performance of his duty when the principal attempted to stop an SRO from arresting a student).

³² See, e.g., CAL. PENAL CODE § 241 (West 2014) (criminalizing assault); FLA. STAT. § 877.03 (2014) (criminalizing disorderly conduct or acts that breach the peace); N.Y. PENAL LAW § 155.05 (McKinney 2014) (criminalizing larceny); VA. CODE ANN. § 18.2-415 (West 2014) (criminalizing disorderly conduct).

³³ See ARIZ. REV. STAT. ANN. § 13-2911 (2015) (criminalizing the disruption of school activities); ARIZ. REV. STAT. ANN. § 15-507 (2014) (criminalizing talking back to teachers); ARK. CODE ANN. § 6-17-106(a) (2014) (same); CAL. PENAL CODE § 415.5 (West 2014) (criminalizing the disruption of school activities); FLA. STAT. § 871.01 (2014) (same);

tussles with another student, talks back to the teacher, or steals another student's property, SROs may arrest that student, even if that student is a five-year-old girl throwing a temper tantrum because her teacher ended a mathematical counting exercise that involved jelly beans.³⁴

Most SROs are not properly prepared to handle student discipline problems. School administrators and teachers receive advanced training in adolescent behavior, discipline, pedagogy, and educational theory and practice, and are accountable to local school boards.³⁵ SROs, on the other hand, typically receive little or no training in adolescent behavior, pedagogy, or educational theory and practice, and are not accountable to school boards.³⁶ In fact, an SRO's decision to arrest a student may rest on criteria wholly inconsistent with the best interest of the student and school.³⁷ After investigating the Ferguson Missouri Police Department, the U.S. Department of Justice concluded that SROs' proclivity to arrest students demonstrated that they did not fully understand the negative consequences associated with arresting students.³⁸ Rather, they found that SROs believed that arresting students was a "positive result of their work."³⁹ The U.S. Department of Justice maintained that,

This perspective suggests a failure of training (including training in mental health, counseling, and the development of the teenage brain); a lack of priority given to de-escalation and conflict

IDAHO CODE ANN. § 18-916 (West 2014) (criminalizing talking back to teachers); MASS. GEN. LAWS ANN. ch. 272, § 40 (West 2014) (criminalizing the disruption of school activities); MONT. CODE ANN. § 20-4-303 (2014) (criminalizing talking back to teachers); NEV. REV. STAT. ANN. § 392.910 (LexisNexis 2014) (criminalizing the disruption of school activities); N.D. CENT. CODE § 15.1-06-16 (2014) (criminalizing talking back to teachers); S.C. CODE ANN. § 16-17-420 (2014) (criminalizing the disruption of school activities); S.D. CODIFIED LAWS § 13-32-6 (2014) (same); TEX. EDUC. CODE ANN. § 37.123 (West 2014) (same); WASH. REV. CODE ANN. § 28A.635.030 (West 2014) (same); W. VA. CODE ANN. § 61-6-14 (West 2014) (same).

³⁴ See *CNN Live Saturday: Interview with Lawyer of Handcuffed 5-Year-Old Student; A Look at Last Minute Preparations for Pope Benedict XVI*, CNN (Apr. 23, 2005, 6:00 PM), <http://www.cnn.com/TRANSCRIPTS/0504/23/cst.04.html>; Thomas C. Tobin, *Video Shows Police Handcuffing 5-Year-Old*, TAMPA BAY TIMES (Apr. 22, 2005), http://www.sptimes.com/2005/04/22/Southpinellas/Video_shows_police_ha.shtml.

³⁵ See Ben Brown, *Understanding and Assessing School Police Officers: A Conceptual and Methodological Comment*, 34 J. CRIM. JUST. 591, 591 (2006). This does not mean to say that teachers and school administrators have enough training in these areas. Rather, given many teachers and school administrators' proclivity to rely too heavily on strict, punitive disciplinary methods, arguably many need much more training in these areas.

³⁶ *Id.*

³⁷ *Id.* at 591, 596.

³⁸ See U.S. DEP'T OF JUSTICE, *supra* note 5, at 38.

³⁹ *Id.*

resolution; and insufficient appreciation for the negative educational and long-term outcomes that can result from treating disciplinary concerns as crimes and using force on students.⁴⁰

III. A BETTER WAY TO CREATE SAFE SCHOOLS

Too many of us still misunderstand how to create vibrant, safe learning environments for our children. It has much less to do with strict security measures such as metal detectors and police and much more to do with building meaningful relationships within the school community based on trust.⁴¹ In a conference following the Newtown shootings, Professor Maurice Elias, a clinical psychologist, reminded participants that “[o]ur children cannot learn, and our teachers cannot teach, in schools that are unsafe, unsupportive, uncaring, uncivil[,] or lacking in intellectual challenge These are the ultimate sources of security to children and in ways that are more lasting than metal detectors.”⁴² After the Columbine shootings, the U.S. Secret Service and the U.S. Department of Education conducted a lengthy study regarding school violence.⁴³ They concluded that a fundamental component to providing a safe school was to improve the school’s climate and strengthen trust and communication among members of the school community.⁴⁴ Similarly, after another comprehensive study of school safety in Chicago public schools, scholars Matthew Steinberg, Elaine Allensworth, and David Johnson determined that “it is the quality of relationships between staff and students and between staff and parents that most strongly defines safe schools.”⁴⁵

Thus, perhaps paradoxically, it is not the police, the metal detectors, and the bulletproof glass that keep our students safe.⁴⁶ Rather, it is having supportive, caring relationships within school communities.⁴⁷ Fortunately, we are aware of several evidence-based methods such as restorative justice,

⁴⁰ *Id.*

⁴¹ See MATTHEW P. STEINBERG, ELAINE ALLENSWORTH & DAVID W. JOHNSON, STUDENT AND TEACHER SAFETY IN CHICAGO PUBLIC SCHOOLS: THE ROLES OF COMMUNITY CONTEXT AND SCHOOL SOCIAL ORGANIZATION 8 (2011).

⁴² Joe Green, *South Jersey Schools Discuss Safety Following ‘Perspectives After Newtown’*, NJ.COM (Jan. 23, 2013, 8:00 AM), http://www.nj.com/gloucester-county/index.ssf/2013/01/south_jersey_schools_to_talk_s.html.

⁴³ 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 3–7 (2004).

⁴⁴ See *id.* at 11–12.

⁴⁵ STEINBERG, ALLENSWORTH & JOHNSON, *supra* note 41, at 1.

⁴⁶ See *id.* at 15.

⁴⁷ See FEIN ET AL., *supra* note 43, at 11–12.

Positive Behavioral Interventions and Supports, and social and emotional learning, among other initiatives, that improve both school safety and the learning climate without resorting to harsh disciplinary measures.⁴⁸

If schools do decide to rely on SROs for security purposes, I recommend that state legislatures enact laws that prohibit SROs from becoming involved in disciplinary matters unless students or school staff are in immediate physical danger. Alternatively, SROs should enter into memorandums of understanding (“MOUs”) before they begin to have regular contact with schools. Those MOUs should specify that SROs will not become involved in routine disciplinary matters.⁴⁹ The U.S. Department of Justice, the U.S. Department of Education, the Congressional Research Service, the National Association for School Resource Officers, the American Civil Liberties Union, and several states support the adoption of MOUs if schools use SROs.⁵⁰ One report observed that when schools and SROs fail to define their respective roles and responsibilities in the school, “problems are often rampant—and often last for months and even years.”⁵¹

Further, if our nation continues to rely on SROs, state legislatures should pass legislation requiring SROs to receive more training before accepting posts within schools. That training should include instruction on adolescent behavior and how to work effectively with all children, including racial and ethnic minorities, students with disabilities, and LGTBQ youth. It should include training on mental health, the development of the teenage brain, de-escalation and conflict resolution, implicit bias, and an appreciation of the long-term consequences of using force on students and involving them in the justice system.⁵² It is

⁴⁸ See Jason P. Nance, *Dismantling the School-to-Prison Pipeline: Tools for Change*, 48 ARIZ. ST. L.J. 313 (2016) for an extended discussion of initiatives that schools can employ to create safe, vibrant learning climates without resorting to harsh, punitive disciplinary measures.

⁴⁹ See Statement of Interest of the United States at 13–14, *S.R. v. Kenton Cty. Sheriff’s Office*, No. 2:15-CV-143 (E.D. Ky. Oct. 2, 2015); U.S. DEP’T OF EDUC., GUIDING PRINCIPLES: A RESOURCE GUIDE FOR IMPROVING SCHOOL CLIMATE AND DISCIPLINE 9–10 (2014).

⁵⁰ See Statement of Interest of the United States, *supra* note 49, at 13–14; MD. CODE ANN., EDUC. § 26-102 (LexisNexis 2014); TEX. EDUC. CODE ANN. § 37.0021 (West 2013); JAMES & MCCALLION, *supra* note 8, at 11; CATHERINE Y. KIM & I. INDIA GERONIMO, POLICING IN SCHOOLS: DEVELOPING A GOVERNANCE DOCUMENT FOR SCHOOL RESOURCE OFFICERS IN K-12 SCHOOLS 6–7 (2009); RAYMOND, *supra* note 18, at 30.

⁵¹ PETER FINN ET AL., COMPARISON OF PROGRAM ACTIVITIES AND LESSONS LEARNED AMONG 19 SCHOOL RESOURCE OFFICER (SRO) PROGRAMS 2 (2005).

⁵² See Statement of Interest of the United States, *supra* note 49, at 13–14; U.S. DEP’T OF EDUC., *supra* note 49, at 7–8; U.S. DEP’T OF JUSTICE, *supra* note 5, at 37–38.

imperative that SROs learn a range of non-punitive methods to employ when working with students, leave routine disciplinary matters to educators, and invoke their arrest authority only as a last resort to protect other members of the school community from harm.⁵³

CONCLUSION

Most certainly there are many SROs who do not mistreat students and who were appalled by what occurred in South Carolina. Nevertheless, it is time for our nation to reconsider whether to dramatically scale back or eliminate the practice of assigning SROs to schools. Indeed, the time is right to consider replacing SROs with alternative, evidence-based methods that keep students safe, enhance the learning climate, and do not funnel more students into the school-to-prison pipeline. As Judge Carlos F. Lucero of the United States Court of Appeals for the Tenth Circuit recently observed:

[T]housands of [students] needlessly thrust into the criminal justice system deserve better. . . . It [is] too easy for educators [and lawmakers] to shed their significant and important role in [the disciplinary] process and delegate it to the police and courts. . . . A more enlightened approach to . . . school discipline by educators, police, and courts will enhance productive lives and help break the school-to-prison chain.⁵⁴

We owe it to our children to take this better approach.

⁵³ See Statement of Interest of the United States, *supra* note 49, at 13–15; U.S. DEP'T OF EDUC., *supra* note 49, at 7–8; U.S. DEP'T OF JUSTICE, *supra* note 5, at 37–38.

⁵⁴ *Hawker v. Sandy City Corp.*, 774 F.3d 1243, 1246 (10th Cir. 2014) (Lucero, J., concurring).