

# FROM REPORT CARD TO CRIMINAL RECORD

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## The Impact of Policing Oakland Youth

## **The Partners**

**The Black Organizing Project (BOP)** is a black, member-led, community organization working for racial, social, and economic justice through grassroots organizing and community building in the Bay Area. BOP carries out member-led campaigns toward institutional, local and statewide policy change. BOP seeks to erode and replace the current system of structural racism in which low-income black people are systematically shut out of the decision-making process and the resources and opportunities needed for community safety, economic sustainability and well-being.

**Public Counsel** is the nation's largest pro bono law firm and delivers justice, hope and opportunity to children, families, veterans, nonprofits and small businesses through direct legal services, policy and legislation, and impact litigation in nine practice areas. Public Counsel believes schools need to create opportunity, foster equality, and promote success for all students. With a 40-year history in Southern California and a Bay Area office focused on the education rights of all California students, we are working to ensure students can stay in school and on track to graduate, reform education for youth who are incarcerated, guide foster youth to success in school, and win special education and other supports for students in need. Public Counsel sponsored, drafted, and/or supported 5 new laws in 2012 to fix problems with harsh school discipline and works with educators, parents, and students to promote alternatives to suspension and expulsion. Learn more at [www.fixschooldiscipline.org](http://www.fixschooldiscipline.org).

**ACLU-NC:** The American Civil Liberties Union ("ACLU") is a nation-wide, nonprofit, nonpartisan organization with more than 500,000 members. The ACLU of Northern California ("the ACLU affiliate") is a regional affiliate of the national ACLU. The ACLU affiliate was founded more than seventy-five years ago to preserve and protect the fundamental principles of the Bill of Rights. The ACLU is strongly committed to protecting the rights of minorities to equal protection as guaranteed by the Fourteenth Amendment and state and federal anti-discrimination statutes, and to preserving California's fundamental right to education. In particular, the ACLU affiliate has created an Education Equity project because we believe every student has a right to equal educational opportunities. Through a combination of strategies including litigation, legislation, public education and local advocacy, we work to ensure that all students have the opportunity to attend nurturing, well-resourced schools that provide quality education free from discrimination, and, in particular, to stem the school-to-prison-pipeline that is pushing too many students out of school and into the criminal justice system.

## **What We Are Changing**

Through the partnership and advocacy of BOP, Public Counsel and the ACLU:

- Oakland students, teachers, parents and community members now have a clear process and policy in place for making complaints specific to school police personnel, which includes public reporting. The Oakland Unified Complaints Policy drafted by our organizations was finalized and passed in the summer of 2012;
- Critical data has been collected and analyzed to provide a picture for Oakland parents, students, and community members of how law enforcement is interacting with Oakland's children; and
- The Oakland School Police Department is now working to revamp its current data tracking system to employ clear, consistent and relevant tracking of arrests and contacts between students and police and moving toward regular public reporting.

# FROM REPORT CARD TO CRIMINAL RECORD:

## The Impact of Policing Oakland Youth

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## Executive Summary

In the name of public safety, Black children in Oakland are being arrested at vastly disproportionate rates. This derails their opportunities for educational success while failing to ensure our children's safety. **From Report Card to Criminal Record: The Impact of Policing Oakland Youth** describes the various and overlapping law enforcement agencies which police Oakland's children. It reveals disturbing trends in disproportionate arrests and law enforcement contacts with youth of color, coupled with the underfunding of counselors, mental health professionals, and others whose presence could work to reduce the need for law enforcement. The information contained in this report comes from data obtained directly from Oakland Unified School District, the Oakland School Police Department, the Oakland Police Department, and Alameda County Probation.

Among the report's key findings:

- Over a seven year period, Black youth were, on average, 73.5% of all juvenile arrests by the Oakland Police Department each year, even though they make up just 29.3% of the Oakland youth population.
- Black youth were referred to the Alameda County Probation *at more than two-and-a-half times* their percentage in the population. This means they are six times more likely than Hispanic youth, and *23 times more likely than White youth*, to be arrested and referred to Alameda County Probation.
- For arrests reported by the Oakland School Police Department during the last two years:
  - While Black youth made up only 30.5% of the district's student population, they made up 73% of Oakland School Police Department's 85 arrests;
  - Oakland School Police Department did not report a single White student arrest.
- OUSD reports employing only 20.5 school counselors, or one school counselor for every 1,854 students.

In addition to data obtained from these agencies, the report shares findings from the Black Organizing Project's survey about community and youth perceptions of school police and alternatives for school safety. The survey answers uncovered that a majority of students surveyed dislike the presence of school police on campus and would prefer to implement alternatives to keep schools safe.

The report also reviews national research that shows, among other things, that arrests and contact with the juvenile justice system are significant contributors to high rates of school push-out and negative future outcomes for youth.

Also outlined in this report are specific, research-based alternatives to policing that work, such as Restorative Justice, Positive Behavior Interventions and Supports and reinvesting in caring, competent school counselors. We therefore call on OUSD administrators, city leaders, law

enforcement entities, community members, and other stakeholders to take immediate steps to address these serious concerns, including:

1. Implement Positive Behavior Intervention and Support practices in all OUSD schools and rely on Restorative Justice models as the first line of intervention for mediating student behavior.
2. Make a far greater investment in counselors and mentors going forward.
3. Develop and implement a meaningful memorandum of understanding between OPD and OUSD that clearly defines and limits the role of OPD officers in and around campuses, requires OPD to eliminate disproportionate arrest of youth of color, and allows for data review and monitoring by OUSD.
4. Create a policy internal to OUSD in partnership with parents, students, and the community that outlines when and how to use law enforcement agencies for serious safety threats and criminal behavior and eliminates disproportionate contacts and arrests of Black youth.

# FROM REPORT CARD TO CRIMINAL RECORD:

## The Impact of Policing Oakland Youth

### Introduction

As in many cities across the country, Oakland's law enforcement agencies and schools are facing a serious problem. Black children are disproportionately criminalized and arrested in the name of safety. Through the years, this deeply flawed approach to policing has continued to feed this crisis, and has prevented positive change from taking hold. We are investing too much in a system that relies too heavily on law enforcement to solve non-criminal problems, and it is not working. Over-policing our youth does not increase their chances for educational success, nor does it guarantee their safety on our streets or in our schools. In fact, it has the reverse effect. In Oakland, we have failed to invest in systems that create safe and supportive environments for youth. This underinvestment, coupled with over-policing students and school-aged youth, is sending too many of our young people down a pipeline to prison.

Parents and teachers around the country say that they are frustrated with their school environments, which can feel chaotic. Citing exhaustion and too many competing demands, school districts and administrators too often default to police as the expedient solution. Fear rather than research seems to drive decision-making. The same system of discriminatory policing that has targeted people of color in our communities for years is seeping into our schools, derailing the lives and futures of too many young people.

It doesn't have to be this way. There are research-based alternatives to policing, like Restorative Justice, Positive Behavior Interventions and Support and reinvesting in caring, competent school counselors, mental health professionals, and community mentors who can engage students and their parents. These alternatives create more welcoming environments that are conducive to learning and to keeping students safe. Many Oakland school leaders already support these strategies, but so far, the amount of resources, funding, training and emphasis dedicated to these solutions has been insufficient to change the system. In order to successfully implement these proactive interventions and alternatives, a paradigm shift is required both in the way we prioritize resources and in the way teachers and administrators interact with our children and one another.

We need to move away from this expensive yet ineffective way of securing campuses to a more thoughtful, evidence-based and cost-effective approach to educating our children, while also keeping them safe. To do that, it will require students, parents, advocates, and community members to come together to take a stand, to say: We are not going to continue to push black and brown children into the criminal justice system. We must create an educational system that will nurture *all* children. Their, and our, futures depend upon it.

## Summary of Findings

**From Report Card to Criminal Record: The Impact of Policing Oakland Youth** is the work of three organizations, the Black Organizing Project (“BOP”), the American Civil Liberties Union of Northern California (“ACLU of Northern California”), and Public Counsel Law Center (“Public Counsel”). The report reveals disturbing trends in disproportionate arrests and contacts with youth of color confirmed from data obtained directly from Oakland Unified School District (“OUSD”, Oakland School Police Department (“Oakland School Police”), Oakland Police Department (“OPD”), and Alameda County Probation Department (“Alameda County Probation”) records. Here are some key findings:

- In the past seven years (2006-2012):
  - Black youth made up on average 73.5% of all juvenile arrests by the Oakland Police Department each year, even though they make up just 29.3% of the Oakland youth population.
- In the past five years (2008-2012):
  - Black youth were referred to the Probation Department *at more than two-and-a-half times* their percentage in the population:
    - Comprising 78% of the total 13,684 juvenile arrests in the City of Oakland referred to probation, even though they make up just 29.3% of the Oakland youth population.
  - White youth comprised only 1.5% of the total arrests and referrals.
  - More than half - 56.6% - of the total arrests referred to Probation were “non-sustained”, but a shocking 78% of all arrests/referrals deemed non-sustained, were for Black youth.
- In the past two years:
  - While Black Youth made up only 30.5% of the OUSD student population, they made up 73% of Oakland School Police’s 85 arrests;
  - Oakland School Police did not report a single white student arrest.
- In the last year:
  - In 2013, OUSD employed roughly 20 school counselors, or one school counselor per every 1,854 students.
  - OUSD spends about \$1.5 million on school counselors and Restorative Justice programs but spends approximately \$5 million on the Oakland School Police Department.
  - Roughly, 115 security and law enforcement officers from Oakland School Police and OPD are budgeted to work with the District.
  - City and OUSD budgets together allocate funding for approximately six times more police officers and school security guards in Oakland schools than school counselors.

We believe these findings require an immediate and proactive response from Oakland leaders to reform the systems and structures that result in such disproportionate results for young people of color, specifically Black youth. As research confirms, regular and disparate police arrests are a significant contributor to high rates of school push-out<sup>1</sup> for students of color.

In sum, this extraordinary and unconscionable over-criminalization of Black youth cannot be ignored and requires immediate action by all stakeholders.

### **Summary of Recommendations**

By releasing this report we hope to:

- Bring immediate attention to the urgent need for OUSD and Oakland’s law enforcement agencies to address the disproportionate targeting and arrest of Black youth.
- Urge OUSD and OPD to create a memorandum of understanding (MOU) that requires OPD officers to interact with OUSD students in a way that eliminates disproportionate contact, arrests, and profiling and prioritizes administrative and evidence-based educational responses to low-level conduct over police involvement.
- Provide important information about school push-out and policing of Oakland youth.
- Demonstrate the need for and present several alternative models to the current system of school policing and school safety in Oakland that should be immediately implemented.
- Inform the national conversation on school policing.

## **History and Methodology**

### **How We Got Here**

In October 2011, members of BOP launched the Bettering Our School System (“BOSS”) campaign to address the impact of law enforcement on students in the OUSD. The BOSS campaign was the product of a year of community research and analysis, but was prompted by the tragic killing of Raheim Brown, a Black<sup>2</sup> youth, by Oakland school police in January 2011.

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<sup>1</sup> School push-out refers to the many and systemic factors that prevent or discourage young people from remaining on track to complete their education.

<sup>2</sup> We use the term Black to describe people of African descent within this report, even though the various agencies vary between Black or African-American in their respective data sets. We use the term “Hispanic” to reflect the term used by the agencies in collecting and reporting data.



Raheim was in the passenger side of a parked car outside of a school dance when he was fatally shot.<sup>3</sup>

BOP members attended a school board meeting immediately after Raheim's death and were shocked by the school district's response. Community members were shut down and the voices of family members and friends of Raheim were silenced by protocol and defensiveness. BOP members, including parents and students in OUSD, began to ask questions about the role and purpose of Oakland school police and the impact that police were having on student learning, climate, and education.

Less than a year after Raheim's death and the district's failure to condemn the shooting and acknowledge the incident as an injustice, the community received another blow. In August 2011, Oakland School Police Chief, Pete Sarna, was placed on paid administrative leave following confirmed reports that he had repeatedly used racial slurs (specifically, use of the N-word) toward a Black officer and had told this officer – who lives in the upscale city of Orinda – “the only good n- is a dead n- and they should hang you in the town square to prevent any other n- from coming in the area.”<sup>4</sup> In place of Chief Sarna, OUSD appointed Sgt. Barhin Bhatt, the officer who shot Raheim, as Interim Chief.<sup>5</sup> Outraged by the apparent disregard for community concerns regarding Oakland School Police leadership and treatment of youth of color, BOP joined others in taking action. After broad community opposition, Sgt. Bhatt was replaced with the current Interim Chief, James Williams (“Chief Williams”).<sup>6</sup>

## How BOP Organized

In 2011, as a way to channel community frustrations over the policing of our youth, BOP organized community meetings across the city to listen to parents, students and community members about what they would like to see in their schools. In the spring of 2011, BOP conducted surveys<sup>7</sup> at more than 25 schools in Oakland and surrounding areas. BOP surveyed more than 300 students, 200 parents and community members about their perceptions of the school police and alternatives to school safety. The survey answers revealed that a majority of

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<sup>3</sup> Rebecca Bowe, *Oakland school cop comes forward as a whistleblower*, SFBG, 28 February 2013, available at <http://www.sfbg.com/politics/2013/02/28/oakland-school-cop-comes-forward-whistleblower> (last visited August 11, 2013).

<sup>4</sup> Henry K. Lee, *Oakland schools' top cop quits over slurs*, The San Francisco Chronicle, 17 August 2011, available at <http://www.sfgate.com/bayarea/article/Oakland-schools-top-cop-quits-over-slurs-2334944.php> (last visited July 29, 2013).

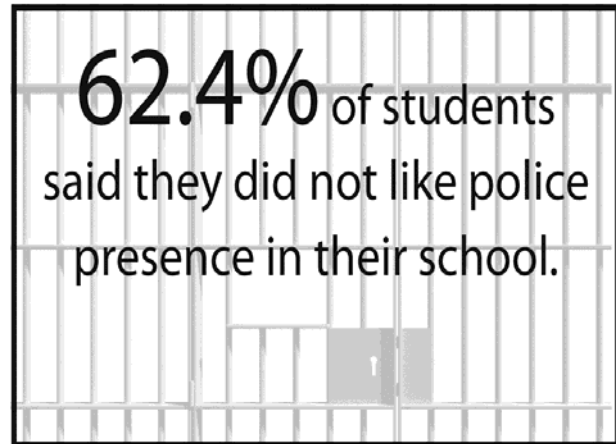
<sup>5</sup> Rebecca Bowe, *Oakland school cop comes forward as a whistleblower*, SFBG, 28 February 2013, available at <http://www.sfbg.com/politics/2013/02/28/oakland-school-cop-comes-forward-whistleblower> (last visited August 11, 2013).

<sup>6</sup> *Id.*

<sup>7</sup> The entire BOP Survey instrument can be found online at <http://blackorganizingproject.files.wordpress.com/2013/08/schoolpolicesurvey.pdf>; and at <http://blackorganizingproject.files.wordpress.com/2013/08/bop-combined-survey-results-2.pdf>.

students dislike the presence of school police on campus and would prefer to implement alternatives to keep schools safe. Specifically, of those that were surveyed:

- 62.4% of students said they did not like police presence in their school



In addition, among other things, the surveys revealed that when asked by BOP whether students felt safe on campus and whether or not more police presence on their campus would make them feel safer:

- 64.1% of students said they believed they could have safe schools without police
- Only 1% of the students surveyed believed that there was a need for more police

After reviewing the findings, BOP began to research school discipline and policing of school-aged youth nation-wide. This issue was not only impacting Oakland; youth, particularly youth of color, are threatened by over-policing of schools and harsh suspensions and expulsions across the country. Specifically, research clearly shows that exclusionary discipline and arrests are directly correlated with lower-achievement and higher drop-out rates.<sup>8</sup>

BOP members met with representatives of Oakland’s school board and began to request information to better understand the issue. Unfortunately, this became a much more difficult task than expected. After several attempts to get public information, including through a Public Records Act (PRA) Request<sup>9</sup> sent to OUSD on April 4, 2011, BOP enlisted support from the ACLU of Northern California and Public Counsel to represent BOP in accessing information. Both organizations are deeply committed to educational justice and provided legal advocacy support to help BOP obtain and analyze the data and advocate for reforms.

### **Partnering for Information and Change**

In 2012, BOP partnered with Public Counsel and the ACLU of Northern California to gain information about three law enforcement agencies interacting with Oakland students: the Oakland School Police, OPD, and Alameda County Probation.

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<sup>8</sup> Dan Losen, *Discipline Policies, Successful Schools, and Racial Justice*. National Education Policy Center. 5 October 2011, available at <http://nepc.colorado.edu/publication/discipline-policies> (last visited August 12, 2013).

<sup>9</sup> A Public Record Act Request is the state version of a Freedom of Information Act request. It requires state agencies to provide public documents to any member of the public requesting them. Herein, where numbers are used to refer to documents relied upon, these numbers refer to the internal numbers that BOP, Public Counsel and ACLU have given to such documents. Any documents referred to herein can be requested from the report authors.

During 2012 and early 2013, our organizations analyzed hundreds of pages of documents obtained from PRA requests made to Oakland School Police, OPD and Alameda County Probation regarding the structure and interactions of Oakland's law enforcement agencies and data about youth citations, arrests, and school police complaints. We analyzed and summarized the data, which is explained in greater detail in the Appendix of the report on page 28. BOP then shared the initial data and findings from this report with its membership and continued to conduct outreach and hold community meetings around the issue. Additionally, OUSD's top leadership and Interim Chief Williams have repeatedly met with our organizations and worked with us to begin to create systems of accountability and to address some of the concerns raised in this report. The results of our findings and our recommendations for further reform are contained in this report.

## **The Impact of Policing On Oakland Youth and Schools**

### **Who Is Policing Our Children?**

Three types of law enforcement officers police OUSD: officers from Oakland School Police, School Security Officers, and OPD officers.

#### ***Oakland Police Department: Informal and Formal Relationship with OUSD***

Many people, in Oakland and elsewhere, assume that some police officers are better than no police officers, no matter how the agency or the officers behave toward or impact our children. However, OPD's record should be assessed before its officers are entrusted with or invited to police our children in their schools.

This is particularly true because OPD has been unable to comply with the terms agreed upon by the Court and the parties in the long-standing case, *Allen v. City of Oakland* known popularly as "The Riders Case." By joint agreement, the Court has now placed OPD under the authority of a Compliance Director who reports directly to the Court and who is responsible for ensuring that OPD complies with the Negotiated Settlement Agreement's Terms and Conditions.<sup>10</sup>

As further evidence of the turmoil within OPD, former Chief Howard Jordan resigned from OPD at the beginning of May 2013. After the first Interim Chief resigned within days, the former chief of the Baltimore Police Department, Thomas C. Frazier, was appointed by the Court to fulfill this role.<sup>11</sup> Among the issues identified in *Allen v. City of Oakland* lawsuit, are

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<sup>10</sup> <http://www2.oaklandnet.com/oakca1/groups/police/documents/webcontent/oak039007.pdf> (last visited May 20, 2013); "Proposed Order", Case No. 00-cv-4599 THE (NC).

<sup>11</sup> Matthew Artz and Thomas Peele, *Oakland: Interim Police Chief Toribio out just two days after appointment*, San Jose Mercury News, 10 May 2013, available at [http://www.mercurynews.com/ci\\_23216308/oakland-interim-police-chief-toribio-out-just-two](http://www.mercurynews.com/ci_23216308/oakland-interim-police-chief-toribio-out-just-two) (last visited April 29, 2013).

OPD's inability to properly investigate complaints against officers, unjustified incidents of racial profiling and bias, unjustified incidents involving the pointing of firearms at minority citizens and improper use of force.<sup>12</sup>

Recent articles noting the failure of the OPD to address even the most basic issues, include:

- *Oakland Cops Shoot A Lot Of People* (SFist.com May 2013)<sup>13</sup>
  - “[Author] cites a host of evidence, including the number of suspects shot at – 87 between 2000 and 2012, 39 of whom died – to argue that Oakland Police may lack adequate training when it comes to apprehending criminals.”
- *Oakland Teen Mistakenly Shot By Police Retains Lawyer* (CBS Local April 2013)<sup>14</sup>
  - “The family of an innocent 16-year-old boy shot in the face by Oakland police...has retained a civil rights lawyer.”
- *California: Oakland Police Chief Quits* (New York Times, May 2013)<sup>15</sup>
  - “For years, the city’s beleaguered Police Department has suffered from low staffing and management problems. Last year the city narrowly avoided becoming the first in the country to cede control of its police force to federal authorities.”
- *Oakland Police Chief's 'Medical' Retirement Might Not Be So Medical* (SFist.com May 2013)<sup>16</sup>
  - “...just last week, the OPD's compliance director, Thomas Frazier, released a damning report criticizing the department's command structure and their handling of police misconduct investigations.”

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<sup>12</sup> <http://www2.oaklandnet.com/oakca1/groups/police/documents/webcontent/oak039007.pdf> (last visited May 20, 2013); “Proposed Order”, Case No. 00-cv-4599 THE (NC), pg. 5.

<sup>13</sup> Jay Barmann, *Oakland Cops Shoot A Lot of People*, 2 May 2013, available at [http://sfist.com/2013/05/02/oakland\\_cops\\_shoot\\_a\\_lot\\_of\\_people.php](http://sfist.com/2013/05/02/oakland_cops_shoot_a_lot_of_people.php) (last visited August 14, 2013).

<sup>14</sup> *Oakland Teen Mistakenly Shot By Police Retains Lawyer*, CBS News, 5 April 2013, available at <http://sanfrancisco.cbslocal.com/2013/04/05/oakland-teen-mistakenly-shot-by-police-retains-lawyer/> (last visited August 14, 2013).

<sup>15</sup> Malia Wollan, *California: Oakland Police Chief Quits*, New York Times, 8 May 2013, available at [http://www.nytimes.com/2013/05/09/us/california-oakland-police-chief-quits.html?\\_r=0](http://www.nytimes.com/2013/05/09/us/california-oakland-police-chief-quits.html?_r=0) (last Visited August 11, 2013).

<sup>16</sup> Jay Barmann, *Oakland Police Chief's 'Medical' Retirement Might Not Be So Medical*, 9 May 2013, available at [http://sfist.com/2013/05/09/oakland\\_police\\_chief\\_howard\\_jordan\\_1.php](http://sfist.com/2013/05/09/oakland_police_chief_howard_jordan_1.php) (last visited 11 August 2013).

### *The COPS Grant*

Despite ongoing concerns about OPD in the case and the press, OUSD's outgoing Superintendent Tony Smith provided support for OPD's application for a Community Oriented Police Services ("COPS") Hiring Grant in 2011.<sup>17</sup> The grant appropriated funds of \$10,739,575 from the United States Department of Justice to be provided to OPD to fund the entry-level salary and fringe benefit costs of 25 police officers for a 36-month period from September 1, 2011 through August 31, 2014.<sup>18</sup>

The 25 additional officers afforded by this COPS grant allow OPD to assign officers to four designated middle schools and their surrounding neighborhoods.<sup>19</sup> The stated purpose of the grant is to "improve relations between OPD and youth; offering OPD the opportunity to impact young people at a critical stage in their lives by enhancing safety in and around the middle schools by role modeling, and mentoring."<sup>20</sup> Oakland's estimated costs associated with the acceptance of FY 2011 COPS Hiring Grant were \$576,593 in year one, \$1,150,930 in year two, and \$1,529,557 in year three.<sup>21</sup> OUSD was not required to provide any funding for this program.<sup>22</sup>

Implementation of the grant began in 2012. Instead of the four middle school campuses initially designated, we learned that, contrary to the description in the COPS grant there are actually *six* campuses, including two elementary schools, that are part of the COPS Grant for the city.<sup>23</sup> The campuses patrolled by OPD are: Bunche High School, Roosevelt Middle School, Frick Middle School, Elmhurst Middle School, Lockwood Elementary and Parker Elementary School.<sup>24</sup>

There is no Memorandum of Understanding ("MOU") or any other Agreement between OUSD and OPD to guide the implementation of this grant. There are no requirements that OPD report on its activities or otherwise provide information about the type of interactions they are having with students and school staff. OPD has not agreed to provide any data on arrests, citations, or contacts with students in relation to this grant or any outcome data to assess whether their involvement is helpful or harmful to students. In sum, OPD is totally unaccountable to the school district or the community.

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<sup>17</sup>OUSD PD 00781.

<sup>18</sup>OUSD PD 00773.

<sup>19</sup>OUSD PD 00775.

<sup>20</sup>*Id.*

<sup>21</sup>OUSD PD 00787-78.

<sup>22</sup>*Id.*

<sup>23</sup> Chief Williams informed BOP, ACLU of Northern California, and Public Counsel of this during our June 13, 2013 meeting with Superintendent Yee.

<sup>24</sup> *Id.*

“While some may argue that a police presence in our schools is to protect our students, I am concerned with the lack of goals for policing as they pertain specifically with students. **Through the [BOSS] campaign I have learned about the lack of training and oversight that has been missing in a policing agency entrusted with the safety of our children and specifically my daughter.** The lack of vision and specific goal orientation of a policing agency is a truly frightening idea when considering the agencies outcomes impact black students the worst. -- *Duron Aldredge, parent of Burckhalter Elementary*

### *Oakland School Police Department: Police with Guns vs. Security Guards*

As stated in the Oakland School Police manual, their mission is “to support the educational mission of the District by ensuring the safety and security of students, staff, and property and providing a reassuring, visible presence, responding quickly to calls and working closely with other agencies to resolve issues that put the District’s educational mission at risk...”<sup>25</sup> OUSD pays for both police officers and security guards to work in and around its schools.<sup>26</sup>

The law enforcement officers of OUSD, as distinct from the School Security Officers (SSOs), are “police officers” pursuant to California Penal Code section 830.32.<sup>27</sup> This means that these officers have full police powers; however, they can only carry firearms if authorized and under the terms and conditions of the employing agency.<sup>28</sup> OUSD permits its police officers to carry guns and all of them do. The primary duty of these officers is enforcement of the law as prescribed in Section 38000 of the California Education Code. On the other hand, School Security Officers carry handcuffs but not guns and are not allowed to arrest or cite students.

The Chief of the Oakland School Police manages and supervises both the SSOs and the Police Officers. As of March 21, 2012, there were four sergeants and twelve officers, with three vacancies.<sup>29</sup> There were also 81SSOs.<sup>30</sup>

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<sup>25</sup>OUSD PD 00228.

<sup>26</sup>OUSD PD 00718 & 721; follow-up email dated 3/21/12, from Chief Williams.

<sup>27</sup>OUSD PD 00237; Cal. Penal Code § 830.32 provides:

The following persons are police officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. Those police officers may carry firearms only if authorized and under terms and conditions specified by their employing agency. (a) Members of a California Community College police department appointed pursuant to Section 72330 of the Education Code, if the primary duty of the police officer is the enforcement of the law as prescribed in Section 72330 of the Education Code. (b) Persons employed as members of a police department of a school district pursuant to Section 38000 of the Education Code, if the primary duty of the police officer is the enforcement of the law as prescribed in Section 38000 of the Education Code. (c) Any police officer employed by a K-12 public school district or California Community College district who has completed training as prescribed by subdivision (f) of Section 832.3 shall be designated a school police officer.

<sup>28</sup> *Id.*

<sup>29</sup>OUSD PD 00718 & 721; follow-up email dated 3/21/12, from Chief Williams.

### *No Policies or Protocols for Working with Young People or on a School Campus*

It is a common misperception that school-based police officers have special expertise, knowledge, policies, or training for working with youth or working on a school campus. However, a review of Oakland School Police policies shows that they are almost identical to standard police department policies and do not have any special guidelines or criteria for working with youth or interacting with schools or policing in a school setting. For example, in the handbook section describing “specific search situations” it discusses residential searches, items in plain view, exigent circumstances, and consent searches. However, it does not mention the particular rules that apply, or protocol to be followed, when school police officers are working in conjunction with school officials or even unilaterally on school grounds. The one section of the manual that discusses “Temporary Custody of Juveniles” uses language and code citations that are standard in police handbooks and does not have any specialized information for working with teens and youth.<sup>31</sup>

Moreover, research shows that officers who receive specialized training still act primarily as law enforcement agents, such that in a study of four California districts, law enforcement officers who were placed on campuses as mentors and counselors reported that they arrested students for non-serious behavior as a deterrent or to connect high need students to purported services in the juvenile justice system. Further, a 2009 study of officers engaged in preventative work found that such officers are actually more likely to arrest students for low-level offenses.<sup>32</sup> School police officer presence was associated with a 128 percent higher arrest rate in schools assigned.<sup>33</sup> These studies reaffirm that law enforcement officers are not designed to fulfill the role of counselors or mentors and that placing them in such a role, in lieu of counselors and mentors, can have negative consequences.<sup>34</sup>

### **How Much Are We Spending and What Are the Trade-offs?**

The total budget for OUSD in 2012 was \$615,994,875.<sup>35</sup> Of this amount, at least \$4,970,611 was allocated to Oakland School Police, which includes the budget for both police officers and SSOs.<sup>36</sup> Because allocations are redirected through the year to address identified needs, e.g., for additional security guards, the total amount spent in 2012 likely exceeds the amount listed. If a

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<sup>30</sup> See May 24, 2012 Notes of Laura Faer regarding meeting with Vernon Hal concerning budget.

<sup>31</sup> OUSD PD 00307-16.

<sup>32</sup> Matthew T. Theriot, *School Resource Officers and the Criminalization of Student Behavior*, *Journal of Criminal Justice*: 37, 280-287 (2009).

<sup>33</sup> *Id.* (Noting the title “School Resource Officer” SRO is used differently among local jurisdictions. Some agencies use the title to refer to any sworn law enforcement officer stationed at one or more schools.)

<sup>34</sup> Noor Dawood, *Reorienting School Policing: Strategies for modifying school policing objectives to reduce unintended consequences, while preserving unique benefits*, *Goldman School of Public Policy*, pg. 18 (2011).

<sup>35</sup> See May 24, 2012 Notes of Laura Faer regarding meeting with Vernon Hal concerning budget (noting the OUSD budget of \$615,994,875.).

<sup>36</sup> *Id.*

school site wants an extra SSO, per OUSD leadership, they simply need to make a request from the school district and set aside an extra \$45,000 from their school budget.<sup>37</sup>

OUSD is currently budgeted to pay the salary for 12 police officers; however, only nine positions were filled as of July 30, 2013.<sup>38</sup> Additionally, there has been a steady increase of managerial positions. In 2008-09, there were two sergeants, a lieutenant, and no chief.<sup>39</sup> Last year, there were three sergeants.<sup>40</sup> For the 2011-12 school year, there were four sergeants, one police chief and one person designated for emergency preparedness for the 2012 school year.<sup>41</sup> A police officer's salary is approximately \$106,000 per year with benefits.<sup>42</sup> Police officers must also receive training every two years and every time a weapon is fired. There is additional money set aside for psychological evaluations for officers returning from leave and for those who fire a weapon. Police officers also require cars and equipment; cars generally only last two years; the cost for one car could be up to \$95,700 with all of the required police equipment.<sup>43</sup>

The average cost of a SSO is \$45,000 plus \$10,000/yr for uniforms. In 2011-12, OUSD paid the salaries of 81 SSOs.<sup>44</sup>

In addition, during the 2010-2011 school year, one of the district administrators, Maria Santos, provided an additional \$190,000 from a separate budget to pay for nine more SSOs midway through the school year. This money was initially deemed a one-time decision; however, now all schools in the coming year will retain the extra SSOs and the budget will be accordingly increased for Oakland School Police.<sup>45</sup> We know of no similar procedure for schools who request additional school, mental health or restorative justice counselors.

To fund the Oakland School Police, the District uses primarily unrestricted funds, meaning funds that could be used for any purpose, such as – counseling, reading interventions, math support services, college counselors. Through a review of the budget, we identified funding that used to be restricted by the state for use in improving instruction (i.e., Targeted Intervention and Instruction Grant and for teachers to supplement instruction), that is now being used for officer and security guard salaries.<sup>46</sup>

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<sup>37</sup> *Id.*

<sup>38</sup> Email from Chief Williams dated 7/30/13.

<sup>39</sup> See May 24, 2012 Notes of Laura Faer regarding meeting with Vernon Hal concerning budget.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

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

<sup>43</sup> See May 24, 2012 Notes of Laura Faer regarding meeting with Vernon Hal concerning budget (noting police vehicles only last two years on average).

<sup>44</sup> See May 24, 2012 Notes of Laura Faer regarding meeting with Vernon Hal concerning budget.

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

<sup>46</sup> *Id.*



## The Oakland Police Department

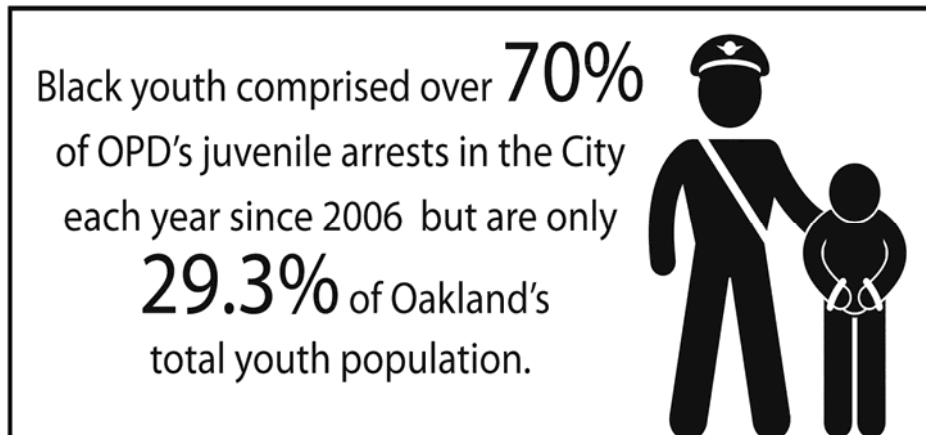
According to the 2010 U.S. Census, there are 56,571 school-aged youth—children ages 5-17—in Oakland.<sup>47</sup> Of this total, 16,566 youth in Oakland identify as Black. As such, Black youth account for: 4.2 percent of Oakland’s total population; 15 percent of Oakland’s total Black population; and 29.3 percent of all Oakland’s school-aged youth.

The vast majority, 86 percent, of Oakland’s Black youth are enrolled in OUSD schools.

The data collected shows that if you are a Black youth in Oakland, the likelihood that you will have contact with or be arrested by the police is disproportionately high and the rate of police contact is alarming.

By an overwhelming margin, OPD has arrested more Black young people than any other ethnic group during the past seven years.<sup>48</sup> Specifically, Black youth comprised, on average, over 70 percent of OPD’s juvenile arrests in the City each year since 2006.<sup>49</sup>

This is particularly troubling because, as noted, Black school-aged youth are only 29.3 percent of Oakland’s total school-aged youth population.<sup>50</sup> This means that Black school-aged youth are arrested *at more than two times* their percentage of the school-aged population. Hispanic school-aged youth comprised 18.7 percent, and White school-aged youth only 2.8 percent, of total arrests during the same time period.



<sup>47</sup> See June 13, 2013 email from staff at Urban Strategies Council (disaggregating the 2010 U.S. Census Bureau data for Oakland, California by race and gender.).

<sup>48</sup> See September 28, 2012 email from Amber Fuller, Police Records Specialist of the Public Records Request Unit for the Oakland Police Department, responding to 6/15/12 PRA Request #6-207: Part A.

<sup>49</sup> All arrests include: gambling, bookmaking, numbers and lottery, all other gambling, driving under the influence, liquor laws, drunkenness, disorderly conduct, vagrancy, “all other offenses (except traffic)”, suspicion, curfew and loitering violations, run-aways, murder, manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny/theft, motor vehicle theft, other assaults, prostitution, arson, forgery and counterfeiting, fraud, vandalism, weapons offenses, drug selling, drug abuse violations, offenses against family and children.

<sup>50</sup> According to the 2010 U.S. Census, there are 56,571 school-aged youth (5-17 years old) in Oakland. Hispanics form the largest percentage of these youth with 38%. Blacks are the next largest group represented with 29.3%.

## Black Youth are Disproportionately Arrested for Low-Level Offenses

OPD provided arrest data for various offenses from 2006-2012. Lower level offenses for which a young person can be arrested include: gambling, bookmaking, numbers and lottery, all other gambling, driving under the influence, liquor laws, drunkenness, disorderly conduct, vagrancy “all other offenses (except traffic),” suspicion, curfew and loitering violations, and run-aways.<sup>51</sup> 1,558 of such arrests were made during this period.<sup>52</sup>

On average, male youth made up 60 percent of these low-level arrests each year. Even more alarming, while Black youth comprise only 29.3 percent of the total Oakland school-aged youth population, *they comprise 78.6 percent* of the total arrests for low-level offenses during the seven-year period;<sup>53</sup> an average 76.9 percent of these arrests per year.

This means that Black youth were arrested *at more than two-and-a-half times* their percentage in the population. “Hispanic” youth had the next highest arrest rate; while they are 38 percent of the total Oakland youth population, they constituted 14.6 percent of the total arrests. White youth, who are 13 percent of Oakland’s youth population, comprise only *3.7 percent of arrests for low-level offenses*.

Based on all reported OPD arrests from 2006-2012, and compared to the 2010 US Census data, *Black youth were five times more likely than Hispanic youth, almost 12 times more likely than White youth to be arrested*. Taken together, *Black youth were six times more likely to be arrested than any other ethnic group*. This data would be troubling even if the majority of arrests were sustained. But it turns out that many of them are not.

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<sup>51</sup> These are the categories provided by OPD.

<sup>52</sup> See September 28, 2012 email from Amber Fuller, Police Records Specialist of the Public Records Request Unit for the Oakland Police Department, responding to our June 15, 2012 PRA Request #6-207: Part A.

<sup>53</sup> The OPD also provided racially disaggregated arrest data that does not match up precisely with the data disaggregated by gender that they provided. The racially disaggregated data shows 1,558 youth arrests from 2006-2012. There were eight more arrests recorded by gender than by race so gender was used.

"In January 2013 I was on my way to work when I was pulled over by a police officer...[for what the officer claimed was] an illegal lane change and I did not have my blinker on...[A]t the same time he got a call about a robbery in the area nearby. He told me to get out of my car and made me sit in the back of the police car... About 30 minutes later the cop came to the back of the cop car and told me I match the description of the suspect in a robbery that had taken place. The victim came to the car to identify me.



**While I was waiting in the squad car I watched the officer and the victim sit and laugh at me while I was in the back seat of the car. After about another 15 minutes the officer came to release me out of the car and he told me that I better be happy I did not commit the crime because he was ready to take me down. I was shocked that an officer would talk to me that kind of way. I was also hurt and felt like I was helpless in this situation...[W]hy would I file a complaint against an officer when I already know they are going to throw it out or make up some excuse and try to validate what he said, how he said it and how he treated me. – Jovonte Kelly, 2010 Ralph J. Bunche High School graduate**

### **Arrested Without Cause?**

During the period from 2008-2012, Alameda County Probation recorded a total of 13,684 juvenile arrests that resulted in a referral to Alameda County Probation from both OPD and Oakland School Police.<sup>54</sup>

Over 99 percent of the arrests referred to Alameda County Probation during that period came from OPD.<sup>55</sup> Stated differently, OPD arrested and referred youth to Alameda County Probation *156 times more often than* Oakland School Police.

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<sup>54</sup> See October 17, 2012 email from Carissa Pappas, Management Analyst at the Alameda County Probation, providing data on arrests reported by Alameda County Probation disaggregated by race, gender, age, arrest date, arrested offenses, sustained offenses, referral type, referral source, and school name.

<sup>55</sup> *Id.*

Black youth comprised 78 percent of the total 13,684 arrests that were referred to the Alameda County Probation.<sup>56</sup> Put another way, Black youth were referred to the Probation Department *at more than two-and-a-half times* their percentage in the population.<sup>57</sup> The next largest group was Hispanic youth who comprised 17 percent of the arrests and referrals. White youth comprised two percent of the total arrests and referrals.

Over half of the total arrests/referrals to Alameda Probation were “non-sustained.”  
Black youth were **78%** of those non-sustained arrests.

Shockingly, over half (56.6 percent) of the total arrests during this period were “non-sustained.”<sup>58</sup> Alameda County Probation states that “*non-sustained likely means the charge was not sustained and the youth was not referred back to Probation.*”<sup>59</sup> Oakland School Police was responsible for 0.6 percent (48), and OPD 99.4 percent (7,693) of the total non-sustained arrests/referrals.

Even worse, Black youth were 78 percent of the non-sustained arrests/referrals.<sup>60</sup> In other words, Black youth *were more than three-quarters of the non-sustained arrests/referrals*. Hispanic youth were the next largest group with 16 percent of the non-sustained arrests/referrals.

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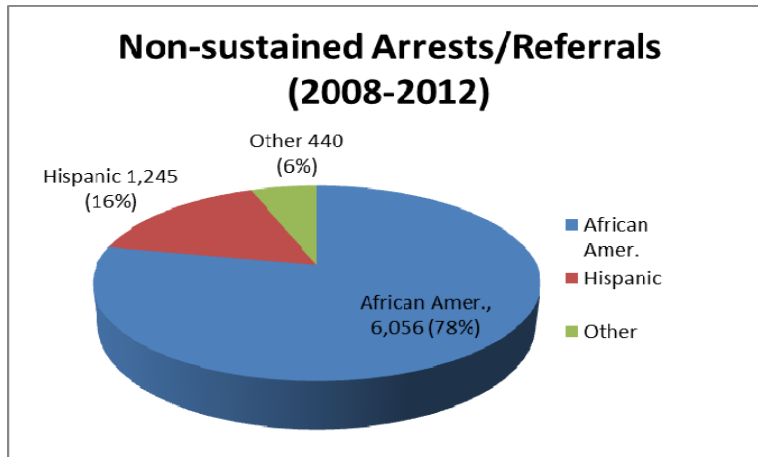
<sup>56</sup> According to Alameda County Probation, Black youth comprised 10,701 of their total arrests and referrals between 2008 and 2012.

<sup>57</sup> Notably, the data does not allow us to determine exactly how many of the arrests occurred on a school campus. However, the data does include information about the school in which the arrestee/referee was enrolled as reported to Alameda County Probation.

<sup>58</sup> Alameda County Probation reported 7,741 arrests were “not sustained”.

<sup>59</sup> See November 27, 2012 email from Carissa Pappas, Management Analyst at the Alameda County Probation (informing us that: “‘Null’ means...in all likelihood, the charge was not sustained and was not referred back to Probation but [Pappas] cautioned automatically assuming this to be the case. There could be another court intervention that does not involve Probation but the Department does not record this information.”).

<sup>60</sup> Black youth comprised 6,056 of the not sustained arrests.



Not only are Black youth being arrested at hugely disproportionate rates, but this is true *despite* the fact that the majority of their arrests for alleged offenses were not sustained.

### **The Oakland School Police Department**

Just over half (56.6 percent) of Oakland’s approximately 83,000<sup>61</sup> school-aged youth were enrolled in the OUSD during the 2011-2012 school year.<sup>62</sup>

Of the 46,486 students enrolled in OUSD during the 2011-2012 school year, Hispanics are the largest ethnic group in OUSD, comprising 41 percent (19,031 students) of the student population. Blacks were the next largest ethnic group at 30.5 percent of the students, or 14,194 students. White students were only 8.8 percent, or 4,105 of the students.<sup>63</sup> Roughly 85.7 percent of Oakland’s Black youth are enrolled in OUSD.<sup>64</sup>

#### ***Disproportionate Arrests of Black Youth***

Oakland School Police reported 85 student arrests between 2010 and 2012.<sup>65</sup> This is certainly good news, especially when compared to the number of youth arrests made by OPD during the same time period.<sup>66</sup>

<sup>61</sup> U.S. Census Bureau. (2010, January). *State & county Quickfacts: Oakland, CA*. available at <http://quickfacts.census.gov/qfd/states/06/0653000.html> (last visited June 12, 2013)

<sup>62</sup> Data obtained from the California Department of Education Website, available at <http://www.dataquest.com>, (last visited June 10, 2013).

<sup>63</sup> *Id.*

<sup>64</sup> According to the U.S. Census (2010, January), there are 16,566 Black school-aged youth in Oakland. According to the California Department of Education, there were 14,194 Black students enrolled in the Oakland Unified School District (K-12) during the 2011-2012 school year. Thus, roughly 85.7% of Black youth in Oakland were enrolled in OUSD. (Note, most kindergartners must be 5 years old at the time of enrollment pursuant to Education Code Section 48000 requirements.).

<sup>65</sup> OUSD PD 834-845.

<sup>66</sup> The data OPD provided to us in response to our June 15 2012 PRA Request, stated that there were 3,360 arrests from 2010-2012. However, the data received from Alameda County Probation on September 27, 2012 states that

Unfortunately, like OPD, Oakland School Police also arrests Black students at a disproportionate rate. While Blacks make up only 30.5 percent of the student population, they make up more than 70 percent of all Oakland School Police arrests. This means that Black students are *six times more likely to be arrested* than Hispanic students. Shockingly, *no white students were arrested* during this time period. When the data is further broken down by gender, it is clear that Black boys bear the brunt of all arrests.

Oakland School Police  
arrested **ZERO**  
white students from  
2010 to 2012.

### Male Students

Black male students were 72.6 percent of all male students arrested between 2010 and 2012. In other words, Black male students *were six times more likely to be arrested* than any other male in the student population.<sup>67</sup> The next largest group was Hispanic males, who were 19 percent of all male students arrested. During the same time period, Oakland School Police *did not report a single white male student arrest*.

### Female Students

Female arrests reflected similar racial disparities. Black female students were 75 percent of the arrests. Put another way, Black females *were 13 times more likely to be arrested* than any other female student. Hispanic female students were the next largest group of students arrested; they made up 16 percent of all female arrestees. Again, *Oakland School Police did not arrest any white females from 2010 and 2012*.

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during this same period, Alameda County Probation received 5,985 arrests/referrals from OPD. Either way, both of these numbers are significantly larger than the arrest numbers reported by Oakland School Police.

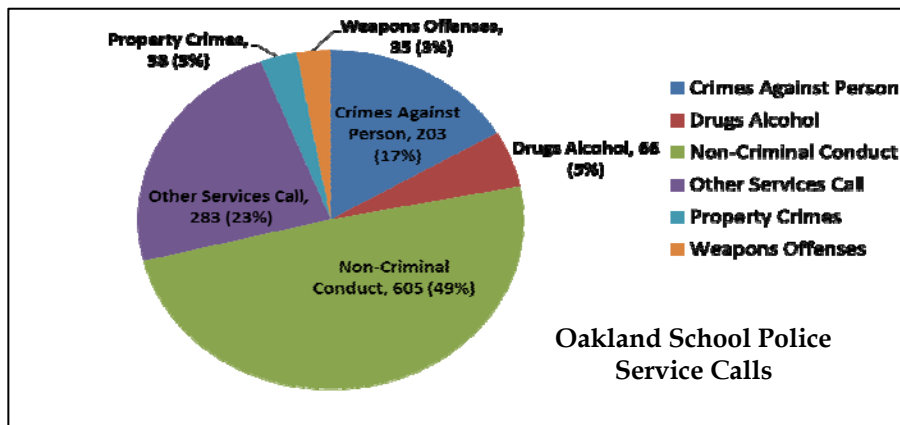
<sup>67</sup> During the 2011-2012 school year, 7,235 Black males were enrolled in OUSD.

Data from Alameda County Probation shows that more than 50 percent of the arrests made and referred by the Oakland School Police during this period were “non-sustained,” calling into question the legitimacy of these arrests.<sup>68</sup>

*Contact with the Police for Minor Infractions or No Infraction At All*

Oakland School Police data also revealed that the majority of requests the police respond to are for “non-criminal conduct” or “other service calls”.<sup>69</sup> Of 1,230 service calls reported from 2010-2012, 72 percent of them were for “non-criminal conduct” or “other service calls”.<sup>70</sup> This means that all other service calls, including those for “drugs and alcohol; property offenses; weapons offenses; and crimes against a person” were only 28 percent of Oakland School Police service calls during this same time period. This raises questions about the appropriate role of police in our schools: why are police being called for so many non-serious incidents, situations that may be better handled by counselors, administrators, school staff or parent volunteers?

As discussed above, several studies have shown that in districts where law enforcement officers play a non-law enforcement role, such as a counselor or mentor, they may arrest *more* students than officers who believe their primary role on campus is ensuring safety.<sup>71</sup> The same study also noted



that several officers reported deliberately using arrests as a preventative device. This means officers who view their role as preventing crime and providing mentorship may be more likely to arrest students for non-serious law violations. It is therefore critical that counselors and school administrators play the roles that they are trained and assigned to fill. Putting law enforcement in the role of counselor risks the unintended but serious consequence of higher district-wide arrest rates and police contacts that too often lead to involvement in the juvenile justice system.

<sup>68</sup> See October 17, 2012 email from Carissa Pappas, Management Analyst at the Alameda County Probation (providing data on arrests reported by Alameda County Probation disaggregated by race, gender, age, arrest date, arrested offenses, sustained offenses, referral type, referral source, and school name).

<sup>69</sup> OUSD PD 00812. See also May 17, 2012 email from Chief Williams (providing the first draft of OUSD survey data).

<sup>70</sup> *Id.*

<sup>71</sup> Noor Dawood, *Reorienting School Policing: Strategies for modifying school policing objectives to reduce unintended consequences, while preserving unique benefits*, Goldman School of Public Policy, pg. 18 (2011).

## The True Cost for Our Young People: What the Numbers Mean

Black youth are six times more likely than Hispanic youth, and 23 times more likely than white youth, to be arrested and referred to Alameda County Probation.<sup>72</sup> These statistics, combined with the high number of non-sustained arrests, indicate that our youth of color have far too much, often undeserved, contact with the various law enforcement agencies that police them.

These statistics are especially alarming because over-policing causes significant and long-lasting harms to young people. Research shows that a first-time arrest doubles the chances that a

Students who come into contact with police officers and the juvenile incarceration system, even briefly, face lasting consequences.

student will drop out of high school, and a first-time court appearance quadruples those chances.<sup>73</sup> The American Psychological Association, the Council of State Governments, and the Center for Disease Control and Prevention have all found that extreme discipline, including arrests, predict grade retention, school dropout, and future involvement in the juvenile and criminal justice systems.<sup>74</sup> Specifically, studies have shown that involvement with the juvenile justice system is linked to limiting a young person's ability to obtain future employment, attend college, and could serve as an enhancement offense if the youth is later convicted as an adult.<sup>75</sup>

In sum, students who come into contact with police officers and the juvenile incarceration system, even briefly, face lasting consequences, not only in the incarceration system, but also in terms of their overall likelihood of graduating from high school and when applying for college, the military, or a job.<sup>76</sup>

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<sup>72</sup> See October 17, 2012 email from Carissa Pappas, Management Analyst at the Alameda County Probation (providing data on arrests reported by Alameda County Probation disaggregated by race, gender, age, arrest date, arrested offenses, sustained offenses, referral type, referral source, and school name.).

<sup>73</sup> Gary Sweeten, *Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement*, 23 *Justice Quarterly* 462, 473-477 (2006).

<sup>74</sup> See, See Russell Skiba et al, *Are Zero Tolerance Policies Effective in the Schools? A Report by the American Psychological Association Task Force* (2006), available at <http://www.apa.org/pubs/info/reports/zero-tolerance-report.pdf> (last visited August 14, 2013); Tony Fabelo, et al., *Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement* (2011); Centers for Disease Control, *Health Risk Behaviors among Adolescents Who Do and Do Not Attend School – United States, (1992)*, 43 *Morbidity and Mortality Weekly Report*, 129 (March 4, 1994). See also Robert Balfanz, et al., *Sent Home and Put Off-Track: The Antecedents, Disproportionalities, and Consequences of Being Suspended in the Ninth Grade* (2012) (Paper prepared for the Closing the School Discipline Gap: Research to Practice national conference in Washington, D.C., January 10, 2013) (finding that students who were suspended even one time in ninth grade doubles their change of dropping out of school).

<sup>75</sup> See Amanda Petteruti, *Education Under Arrest: The Case Against Police in Schools*, Justice Policy Institute (2011) available at [http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest\\_fullreport.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest_fullreport.pdf) (last visited August 14, 2013); Amanda Petteruti, *A Lasting Effect*, Justice Policy Institute (2011); American Bar Association, Criminal Justice Div., *Think Before You Plea: Juvenile Collateral Consequences in the United States*, available at <http://www.beforeyouplea.com/ca> (last visited August 14, 2013).



Studies have shown that excessive and inappropriate reliance on school-based law enforcement officers can actually *promote* disorder and distrust in schools and lead to an increase in the number of students pushed into prison instead of on a college or career path.<sup>77</sup> In the few instances where “efforts to scale back law enforcement involvement” have occurred, incidents of student misbehavior have decreased.<sup>78</sup>

Research also shows that aggressive security measures produce alienation and mistrust among students, which, in turn, can disrupt the learning environment.<sup>79</sup> It is perhaps unsurprising, then, that, 62.4 percent of the more than 300 students in Oakland who responded to BOP’s survey reported that they did not like police on campus and shared some of their reasons.

*“[P]olice are not meant to be mentors and counselors. They are here [at school] to arrest people. When I talk to some of my friends we all feel the same way, we don’t feel comfortable talking to the police because we don’t trust them. .... I feel like the money they are using for the police should be used for programs, activities and jobs. We can reduce crime and make schools safer if kids had something to do.”* –Nate Clark, 17 years old, junior at Coliseum College Prep Academy



*Nate Clark, 17 years old, junior at Coliseum College Prep Academy*

*“[Police] make me feel uncomfortable.”* –Oakland Technical High School student

*“I feel like they are looking for any little reason to send us to juvy.”* – Skyline High School student

*“They always harass us.”* – Castlemont High School student

*“It feels like jail.”* – Skyline High School student

*“They always assume you are doing something.”* – McClymonds High School student

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<sup>76</sup> With respect to college access, see Marsha Weissman et al., *The Use of Criminal History Records in College Admissions* (2010) available at <http://www.communityalternatives.org/pdf.Reconsidered-criminal-hist-recs-in-college-admissions.pdf> (last visited August 1, 2013).

<sup>77</sup> Philip J. Cook, Denise. C. Gottfredson & Choongmin Na, *School Crime Control and Prevention*, 39 *Crime & Just.* 313, 372 (2010); Matthew J. Meyer and Peter E. Leone, *A Structural Analysis of School Violence and Disruption: Implications for Creating Safer Schools*, 22 *Education and Treatment of Children* 333, 352 (1999); Randall R. Beger, *The Worst of Both Worlds*, 28 *Crim. Just. Rev.* 336, 340 (2003); Kathleen Nolan, *Police in the Hallways: Discipline in an Urban High School* 53 (2011); Gary Gottfredson et al., *School Climate Predictors of School Disorder: Results from a National Study of Delinquency Prevention in Schools*, 42 *Journal of Research and Crime and Delinquency* 412, 433 (2005) (finding students rate their schools higher on scales of student delinquency and victimization when they report unfair implementation of arbitrary rules).

<sup>78</sup> *Education under Arrest*, *supra* note 46, at 9.

<sup>79</sup> Randall R. Beger, *The Worst of Both Worlds*, 28 *Crim. Just. Rev.* 336, 340 (2003).

As such, using police in schools can undermine both educators' authority and the relationships between students and educators that are essential to successful schools.

### **More Contacts with Police than School Counselors or Restorative Justice Professionals?**

Despite this growing body of research about the negative effects of police contact with young people, the City of Oakland, with the support of former Superintendent Tony Smith, sought out more money for officers.



"I really feel like we should limit the role of the police in schools. **We don't have counselors and our teachers are overworked and often overwhelmed by the spontaneous decisions that the district make that impact our schools like cutting special education programs, shifting funding towards more resources for police rather than a youth job.** And not just any youth job, a job that we would enjoy. Things like jobs and internships are what will keep us safe because it would keep us busy. I do not know why they give so much money to the police and not invest in the students. I do not think it is fair for our schools to feel like prisons. I really like working on the Bettering Our School System campaign because I feel like this gives us [students] a chance to come together to take action for the conditions of our schools." – *Nyla Kelly, 17 years old, junior Coliseum College Prep Academy*

In 2013, OUSD reported employing only 20.5 school counselors within the school district.<sup>80</sup> Accordingly, there was one school counselor for every 1,854 students (based on a total 38,000 students in OUSD). OUSD spends about \$1.5 million (approximately \$75,000 per position) on school counselors and spends about \$200,000 annually on Restorative Justice programs maintained at only a few schools within the district.<sup>81</sup> In contrast, there were roughly 115-120 security and law enforcement officers from Oakland School Police and OPD budgeted to work with the District. Thus, the City of Oakland and OUSD provide funding for six times more police officers and school security guards in Oakland schools than school counselors.

The limited funding allocated for counselors is particularly troubling given that the American School Counselor Association recommends a ratio of one counselor for every 250 students and that nationally, the ratio is one counselor for every 400 students. In California, the ratio is one counselor for every 810 students.<sup>82</sup> While unacceptable, that cannot compare to the unconscionable rate of one counselor for every 1,854 students in Oakland. In sum, given the research findings compiled by BOP, Public Counsel, and the ACLU of Northern California, it is troubling that OUSD is not placing a much higher priority on employing more school counselors and restorative justice professionals.

**115** total law enforcement officers  
vs.  
**20** OUSD school counselors.  
*There are almost 6 times more law enforcement staff than counselors in OUSD.*

### **Civil Rights Implications of Disproportionate Arrest and Police Contact Rates for Oakland School Police and OPD**

While 73 percent of the 85 arrests from Oakland School Police from 2010 to 2012 were of Black youth and 19 percent of such arrests were of Hispanic youth, *no arrests were recorded for White youth.*

The OPD also showed huge disproportionality; Black youth were, on average, 73.5 percent of all arrests each year between 2006 and 2012. Furthermore, OPD arrested and referred over 99 percent of all the arrests/referrals to the Alameda County Probation Department. More than half of those arrests/referrals were not sustained, and *Black youth were 78 percent of non-sustained arrests/referrals.*

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<sup>80</sup> See June 25, 2013 email from Laura Goin, Office Administrator of the Superintendent's Office, for Oakland Unified School District (responding to June 18, 2012 inquiry about the number of counselors in OUSD.).

<sup>81</sup> *Id.*

<sup>82</sup> Susan Frey, *California near bottom in number of school counselors*, EDSOURCE 21 December 2012, available at <http://www.edsource.org/today/2012/california-near-bottom-in-numbers-of-school-counselors/24557#.Uaeo1KDAE6A> (last visited July 29, 2013).

California Government Code section 11135(a) provides, in relevant part, that “[n]o person in the State of California shall, on the basis of...color...be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that ... receives any financial assistance from the state.” Additionally, California Code of Regulations section 98101 prohibits any program that has a discriminatory purpose or effect.

Given OPD’s track record and the high rates of disproportionate arrests of Black youth, OPD’s policies and practices related to treatment of youth of color are deeply troubling. In addition, given OPD’s refusal to enter into a meaningful MOU with the school district that could require them to share outcome data and create defined roles and responsibilities, we do not believe that OPD can improve educational or other outcomes for students in Oakland schools.

We are also concerned about Oakland School Police’s disproportionate arrest rates. However, in contrast to OPD, OUSD and the Oakland School Police, through their leaders and General Counsel, have already begun making reforms in collaboration with our organizations and the community and have made commitments for reform through a Voluntary Resolution Agreement with the Office for Civil Rights to, among other things:<sup>83</sup>

1. Develop a policy to:
  - a. define the role of Oakland School Police officers vis à vis school administrators with respect to school discipline as required by the VRP to “ensure that school staff employ a range of corrective measures before referring a student to ... law enforcement”, and
  - b. provide regular and accurate public reporting and data analysis related to information regarding contacts, arrests, and diversion/RJ use in lieu of arrest;
2. Train District Staff: Provide training related to the Oakland School Police/OUSD policy, to “District employees” concerning “the role that SSOs are expected to play in the discipline process, focusing in particular on guidelines for when it is appropriate and when it is not appropriate to refer a student to an SSO;”
3. Conduct a Comprehensive Review: “Conduct a comprehensive review of [the District’s] SSO program to assess the program’s effectiveness and identify any changes that should be made to the program to ensure it aligns with and aids the District in accomplishing the goals and objectives set forth in [the Agreement].” OUSD and Oakland School Police should publicly share the results of that review, which is required to include but not be limited to the following: a review of instances where SSOs became involved in a student discipline matter and determine whether it was appropriate or not; and

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<sup>83</sup> *The Oakland Unified School District Resolution*, available at [http://blogs.edweek.org/edweek/District\\_Dossier/oakland%20agreement.pdf](http://blogs.edweek.org/edweek/District_Dossier/oakland%20agreement.pdf) (last visited August 12, 2013).

4. Develop SSO Training Regarding Revised Discipline Policy: Develop “a training program to be delivered to all District SSOs that will explain the revisions being made to the SSO program and what is expected of the SSOs under the revised SSO program and the District’s revised student discipline policies, as well as to develop an orientation program to be delivered to all SSOs newly assigned to the District that explains the SSO program, what is expected of SSOs in the SSO program and the District’s discipline policies.”

OUSD has also made commitments to bring alternatives, such as Positive Behavior Interventions and Supports and Restorative Justice into its schools with the highest rates of suspensions. However, we are very concerned that the commitments above are not being supported with adequate resources, funding, training, and a true shift in culture and priorities.

**“I have a son who just started school...he’s extremely active, and in the long run he’ll be categorized...we don’t know what the guidelines are for these police, you have no idea of what these service calls are about...it affects me just thinking about his future.”** —*Juanita Taylor, parent of Laurel Elementary student*

## **Need for Change: Call to Action**

The stories and information collected here provide us with a framework for understanding police interactions with Oakland students. It is necessary that we, as a community of youth, parents, community organizations, advocates, school staff, school administrators, and legislators initiate and take part in the process toward creating safe schools, communities and learning environments that nurture and educate all of our young people.

Significant changes must be made in order to ensure that the problems detailed in this report are resolved. Several of the reforms we recommend are already required by the Office for Civil Rights Voluntary Resolution Agreement (“Voluntary Resolution”), but from our review it appears that they are not being addressed with sufficient urgency, and that they are under-funded and under-resourced.

Two evidence-based alternatives to the policing model include Positive Behavior Interventions and Support (“PBIS”) and Restorative Justice or Practices (“Restorative Justice”), both of which are already envisioned by the Voluntary Resolution. “PBIS is a framework or approach for assisting school personnel in adopting and organizing evidence-based behavioral

interventions” designed to improve academic and behavior outcomes for all students.<sup>84</sup> Thus, “[w]hen student problem behavior is unresponsive to preventive school-wide and classroom-wide procedures, information about the student’s behavior is used to (a) understand why the problem behavior is occurring...; (b) strengthen...social skills; (c) remove... trigger[s] [to]problem behavior... ; and (d) add ...trigger[s] [for] acceptable alternative behaviors.”<sup>85</sup>

Restorative Justice is an approach that focuses on the needs of victims, offenders, and the community by encouraging offenders to take responsibility for their actions and repair the harm done. The direct victims, and any other affected school community members take an active role in the process. In practice, Restorative Justice often takes the form of restorative circles and restorative conferences where the community comes together to explore how each person has been affected by the offense and ways to make people whole.<sup>86</sup>

For more serious offenses such as student violence, the best way to reduce victimization is by addressing the root causes of violent behavior, such as having personally experienced trauma.<sup>87</sup> Identifying and treating people with trauma-related health problems, and ensuring that our social and justice systems are trauma-informed, must become priorities in order to make PBIS and Restorative Justice approaches successful.<sup>88</sup>

The International Institute for Restorative Practices found that schools using Restorative Justice had decreased incidents of violence, assault, and disorderly conduct in their schools.<sup>89</sup> Indeed, PBIS and Restorative Justice can be more effective than law enforcement at creating a safe school culture when implemented with fidelity.<sup>90</sup>

As such, three guiding principles help us define our recommendations to OUSD, Oakland School Police, the City of Oakland, OPD, and the school community:

- 1) Create safe, nurturing schools
  - a) Implement PBIS practices in all OUSD schools and rely on Restorative Justice models as the first line of intervention for mediating student behavior.
  - b) Make a greater investment in counselors and mentors who are trained in PBIS Restorative Justice, and other alternative to the policing model going forward.

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<sup>84</sup> OSEP Technical Assistance Center on Positive Behavioral Interventions and Supports, *PBIS Frequently Asked Questions*, available at [http://www.pbis.org/pbis\\_faq.aspx](http://www.pbis.org/pbis_faq.aspx) (last visited August 12, 2013).

<sup>85</sup> *Id.*

<sup>86</sup> P. McCold, *A survey of assessment research on mediation and conferencing*. In L. Walgrave (Ed.), *Repositioning Restorative Justice*, pp. 67-120 (2003).

<sup>87</sup> Justice Policy Institute, *Measured Responses: Why increasing law enforcement in schools is not an effective public safety response to the Newtown tragedy* (December 2012).

<sup>88</sup> *Id.*

<sup>89</sup> See Amanda Petteruti, *Education Under Arrest*, *supra* pp. 29 (November 2011).

<sup>90</sup> *Id.*

- c) Set aside funding sufficient to ensure full compliance with the requirements of the Voluntary Resolution.
  - d) Support youth, parent and community participation in decision-making that affects school safety.
- 2) Create transparent and accountable systems within OUSD/Oakland School Police
    - a) Fully implement the Complaint Policy
    - b) Create data systems that clearly track police interactions with Oakland children.
  - 3) Limit the role of police in OUSD schools to serious safety threats and serious criminal behavior
    - a) Oakland Police Department shall enter into a meaningful memorandum of understanding with OUSD that:
      1. clearly defines and limits the role of OPD officers in their interactions with OUSD students in and around campus;
      2. requires OPD to eliminate any disproportionate arrest or contact with youth; and
      3. allows for data review and oversight jurisdiction monitoring by OUSD.<sup>91</sup>
    - b) Create a policy internal to OUSD that is consistent with the Voluntary Resolution requirements that clearly outlines when and how to use law enforcement with a focus on using law enforcement for serious safety threats, serious criminal behavior and reducing/eliminating disproportionate contacts and arrests for all law enforcement agencies working in and around OUSD schools.
  - 4) OPD shall eliminate racial disproportionality in arrests of children.

## Conclusion

We cannot police our way through fixing a broken education system. Safe schools are not created by making them look and feel more like prison. Black youth in Oakland face a harsh reality: too many of them are being pushed off the track for educational success because of inappropriate solutions to school safety and secure communities. Both in the schools they attend and on the streets they walk, the impacts of over-policing are changing their lives forever.

The long-term impacts of these contacts with law enforcement are significant. Youth who become involved in the juvenile justice system have an increased likelihood of dropping out of school and have high rates of recidivism, higher mental health needs, and lower success in employment.. In Oakland, Black youth are six times more likely than Hispanic youth, and 23 times more likely than white youth, to be arrested and referred to Alameda County Probation.<sup>92</sup>

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<sup>91</sup> NYCLU, *Safety with Dignity: Alternatives to the Over Policing of Schools* (July 2009).

<sup>92</sup> See October 17, 2012 email from Carissa Pappas, Management Analyst at the Alameda County Probation (providing data on arrests reported by Alameda County Probation disaggregated by race, gender, age, arrest date, arrested offenses, sustained offenses, referral type, referral source, and school name.).

This report is not an analysis of intention but an attempt to describe the true impact that the current law enforcement-centered safety model is having on young people. It is also a call to OUSD leadership to recommit to the success of our children and truly invest in other models, like PBIS and Restorative Justice.

Making this change requires intention, willingness and a commitment to interrupt this system. It requires much more than commitments to alternatives on paper. It requires the district to align its stated values of “eliminating inequity” and creating “safe, healthy and supportive schools” with a real investment in practices that support that mission.<sup>93</sup>

It means providing real support to students by reducing the gap between the ratio of students to trained counselors. Moving to equity will require transparency, accountability and clear limitations on the role of law enforcement. This shift requires that parents, students, and community members are provided every opportunity to be leaders in decision-making around school safety. Now is the time for OUSD to take a stand for students and provide support to administrators, teachers and principals to change school climate in Oakland.

This is also a call to action for the City of Oakland. The Oakland Police Department has perhaps played the most significant role in criminalization of Black youth. In the name of “safe passage” Black youth are in constant threat of racial profiling. No child should worry that going to school or on their way to school, they will be stopped because of their color or gender, questioned, and put in the back of a police car. Policing schools is not the answer to addressing the city’s budget woes. There must be real accountability around disproportionate arrests of Black youth. Without question, alarm is the appropriate emotional response to this information, and OUSD administrators, law enforcement entities, community members, and other stakeholders must take serious steps to address and alleviate the many concerns raised in this report. This should matter to all of us.

*Injustice anywhere is a threat to justice everywhere* -**Martin Luther King, Jr.**

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<sup>93</sup> *Mission and Vision of the Oakland Unified School District*, available at <http://www.thrivingstudents.org/sites/default/files/CommunityResponsesChalkTalkActivity.pdf> (last visited August 12, 2013).



## APPENDIX

### Methodology Regarding Public Records Act Requests

On behalf of BOP, Public Counsel and the ACLU made several Public Records Act request. The March 6, 2012 Public Records Act request to the OUSD/Oakland School Police sought documents regarding the structure of the Oakland School Police Department, supervisory and oversight responsibilities by the school district and board, data on school arrests and citations, information regarding budgets and allocation of funding, a better understanding of what procedures were available to the public for complaints, and the process for investigating officers and addressing issues. After analyzing the data and information provided by OUSD/OPD and participating in several meetings with Oakland School Police interim Chief James Williams and OUSD legal counsel and budget staff, our organizations sought additional information from the Oakland Police Department and Alameda County Probation to assess the rate and type of youth arrests, including youth arrests in and around schools in Oakland.

Oakland School Police does not book and process its own arrests but rather sends all of its arrests to the OPD. As such, the June 19, 2012 request to OPD sought copies of records for every year from 2006 until the present regarding Oakland School Police Department arrests. The PRA asked for aggregate numbers of arrests and citations for infractions or misdemeanors referred to OPD by Oakland School Police, disaggregated by type of offense, school and or location, gender race, age, and disability of the arrestee.<sup>94</sup> That same PRA also included a request for any and all documents reflecting the relationship between OPD and OUSD and any other policing agency involved in policing at OUSD school sites.<sup>95</sup> In response, among other things, we received a bulk data set of juvenile arrests from 2006 to 2012 for all arrestees under the age of 18.<sup>96</sup> The juvenile arrest data includes the following fields: classification of offenses; sex; age; race; and ethnic origin. The Oakland Police Department informed us that it does not separately identify or code arrests made to it from the Oakland School Police. As such, we cannot determine how many of the overall youth arrests reported by OPD come from Oakland School Police. Furthermore, we cannot cross-check OPD/ Oakland School Police arrest numbers for accuracy. In addition, OPD does not track whether an arrest is school-based or not, so there is no way to determine how many arrests are associated with school activities or come from schools. Additionally, the data set provided includes individuals who were released without having been formally charged.

In an effort to corroborate the arrest and citation data provided by Oakland School Police, as cross-referenced with the OPD data detailing its reported arrests, citations, and referrals in association with Oakland School Police, we also sent a PRA request to the Alameda County

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<sup>94</sup> OUSD PD 00736.

<sup>95</sup>According to Chief Williams, at the time of the March 21, 2012, email no OPD officers were currently located in or spending a portion of their time on OUSD school campuses. See OUSD 00721.

<sup>96</sup>We also received arrest data for adult arrestees over 18 years of age, but this data does not pertain to our inquiry.

Probation Department on September 28, 2012. On October 17, 2012, the Probation Department responded to our request by providing data regarding aggregate arrest information maintained by probation for all youth arrests from 2008-2012. This data set included roughly 13,684 separate arrest entries spanning this time period. The arrest data was also broken up into nine separate categories: unique ID; age of arrestee; race; gender; arrest date; arrested offenses; referral type; referral source (i.e. from either Oakland School Police or the OPD); and the current school of enrollment of the arrestee.<sup>97</sup>

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<sup>97</sup> See November 27, 2012 email from Carissa Pappas, Management Analyst of the Alameda County Probation (informed us that the “current school of enrollment” is defined as the school the student is attending at the time Alameda County Probation receives the arrest.).

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**ACKNOWLEDGEMENTS**

We want to acknowledge:

The hundreds of parents, students and community members in Oakland who stood up and provided their voices and stories for this report

Oakland Unified School District General Counsel Jacqueline Minor and Oakland School Police Department Interim Chief James Williams for meeting with our organizations regarding the development of this report and requests for reform.

Thank you to Jessie Seyfer for proofreading this report, and Gigi Pandian for providing the cover design and photography.

This report was made possible by the generous support of The California Endowment and other generous donors.

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