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FOLLOWING DATA: THE “DEFUND THE POLICE” MOVEMENT’S IMPLICATIONS FOR ELEMENTARY AND SECONDARY SCHOOLS

MICHAEL HEISE AND JASON P. NANCE*

Nationwide calls to “Defund the Police,” largely attributable to Black Lives Matter demonstrations, have motivated derivative calls for public school districts to consider “defunding” school resource officer (“SRO/police”) programs. To be sure, school districts’ SRO/police programs endure as a subject of persistent scholarly and public scrutiny, particularly relating to how a school’s SRO/police presence influences the school’s student discipline reporting policies and practices. How schools report student discipline and whether the process involves referrals to law enforcement agencies matter, particularly as they may fuel a growing “school-to-prison pipeline.” The “school-to-prison pipeline” research literature features two general empirical claims. One is that public schools’ increasingly “legalized” approach toward student discipline increases the probability that students will be thrust into the criminal justice system. A second, distributional claim is that these adverse consequences disproportionately involve students of color, boys, students from low-income households, and other vulnerable student sub-groups. Results from our analyses that draw from the nation’s leading data set on public school crime and safety, supplemented by data on state-level mandatory reporting requirements and district-level per pupil spending, provide mixed support for these two claims. We find that a school’s SRO/police presence corresponds with an increased probability that the school will report student incidents to

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law enforcement agencies. However, we do not find support in the school-level data for the broad distributional claims. While we take no normative positions on these complex and nuanced issues, we feel empirical evidence should inform the already ongoing legal and public policy debates on the future of school SRO/police programs.

I. INTRODUCTION	64
II. LITERATURE REVIEW.....	69
A. The Increased Intersections Between Schools and the Criminal Justice System	69
B. The Growing SRO/Police Presence in Public Schools.....	73
C. Empirical Assessments of SRO/Police Presence in Schools	75
III. DATA AND EMPIRICAL STRATEGY	77
A. Data	77
B. Dependent Variables	79
C. Independent Variables.....	80
D. School-Level Variables.....	81
E. Student-Focused Variables.....	83
F. Empirical Strategy	85
G. Data and Empirical Strategy Limitations.....	86
IV. RESULTS AND DISCUSSION.....	87
V. CONCLUSION.....	90

I. INTRODUCTION

While it is not clear what structural, legal, and policy changes may emerge from recent and ongoing efforts to “Defund the Police,” attributable to the Black Lives Matter movement,¹ one specific shift is already clear: A growing number of public school districts now confront related claims to “defund” school resource officer (“SRO/police”) programs that operate in

¹ #DefundthePolice, BLACK LIVES MATTER (May 30, 2020), <https://blacklivesmatter.com/defundthepolice/> [https://perma.cc/R6EK-3J5P]; Lissandra Villa, *Why Protesters Want to Defund Police Departments*, TIME (June 7, 2020, 11:17 AM), <https://time.com/5849495/black-lives-matter-defund-police-departments/> [https://perma.cc/6DNX-SXLB]; Rachel Hatzipanagos, *What ‘Defund the Police’ Might Look Like*, WASH. POST (June 11, 2020, 11:05 PM), <https://www.washingtonpost.com/nation/2020/06/12/black-lives-matter-defund-police-is-country-ready/> [https://perma.cc/CE32-R6V9].

one-half of the nation's public elementary and secondary schools.² Despite sustained growth in a SRO/police presence in public schools over time, the full suite of costs and benefits for students, schools, and families attributable to SRO/police programs remains largely unknown.³

Questions about, and challenges to, schools' use of SRO/police continue to mount, and a paucity of helpful data complicates reasoned decision-making. While what to do about the growing SRO/police presence in our nations' schools is far from clear, it is clear that policymakers should carefully examine data and engage in nuanced and dispassionate analysis. While we write on these issues much more comprehensively elsewhere,⁴ we hope our Essay contributes helpful data and analyses that might inform policymakers asked to decide the fates of schools' SRO/police programs.

The growing "school-to-prison pipeline" research literature features two general empirical claims that frame key debates about changes in how public schools approach student discipline. One claim is that schools' policies and approaches toward student discipline are becoming increasingly legalized. The steadily increasing SRO/police presence in the nation's public schools both contributes to and reflects this trend.⁵ Aside from an array of factors that help accounts for an increased SRO/police presence in public schools, schools' evolving posture toward student discipline raises important policy

² Nader Issa & Fran Spielman, *Northside College Prep Votes to Remove its CPD Officers, Becomes First CPS School To Do So*, CHI. SUN-TIMES (July 8, 2020, 7:59 PM), <https://chicago.suntimes.com/education/2020/7/8/21316997/northside-college-prep-removes-chicago-police-officer-first-cps-school> [<https://perma.cc/37X9-VM57>]; Ella Torres, *Calls to Defund Police Shine Light on the School-to-Prison Pipeline*, ABC NEWS (June 18, 2020, 5:24 AM), <https://abcnews.go.com/US/calls-defund-police-shine-light-school-prison-pipeline/story?id=71195676> [<https://perma.cc/5J8R-JMQF>]; Katie Reilly, *'Police Do Not Belong in Our Schools.' Student Are Demanding an End to Campus Cops After the Death of George Floyd*, TIME (June 5, 2020, 12:26 PM), <https://time.com/5848959/school-contracts-police/> [<https://perma.cc/EF3B-DSA3>]; Jessica Swamer, *While the Push to Defund Phoenix Police Grows Stronger, Activists Want Officers Out of Schools*, COOPER COURIER (June 16, 2020, 10:44 AM), <https://coppercourier.com/story/students-demand-remove-police-school-campus-phoenix/> [<https://perma.cc/BN34-4TPS>].

³ For examples of recent empirical research on SRO/police programs, see generally Michael Heise & Jason Nance, *'Defund the (School) Police'? Bringing Data to Key School-to-Prison Pipeline Claims*, 111 J. CRIM. L. & CRIMINOLOGY (forthcoming 2021); Jason P. Nance, *Students, Police, and the School-to-Prison Pipeline*, 93 WASH. U. L. REV. 919 (2016); Mario S. Torres Jr., & Jacqueline A. Stefkovich, *Demographics and Police Involvement: Implications for Student Civil Liberties and Just Leadership*, 45 EDUC. AMIN. Q. 450 (2009); Chongmin Na & Denise C. Gottfredson, *Police Officers in Schools: Effects on School Crime and the Processing of Offending Behaviors*, 30 JUST. Q. 1 (2011).

⁴ See Heise & Nance, *supra* note 3.

⁵ See, e.g., *id.* (using 2015–16 SSOCS data); Nance, *Students*, *supra* note 3 (using 2009–10 SSOCS data); Torres & Jacqueline, *supra* note 3 (analyzing 1999–2000 SSOCS data); Na & Gottfredson, *Police*, *supra* note 3 (analyzing various SSOCS data sets).

concerns. An increasingly legalized school environment may contribute to a net increase in overall school safety and a concurrent decrease in school violence. Even if such benefits are realized, potential important costs also lurk. Absent a truly randomized, controlled experiment, efforts to assess and weigh the benefits and costs associated with schools' increasingly legalized approach toward student discipline impose significant demands on potential research designs.

Notwithstanding important research design challenges, much of the public and scholarly attention to schools' evolving posture toward student discipline dwells on the possible negative spill-over effects and individual and social costs. One potential cost involves students' increased exposure to the criminal justice system flowing from changes to schools' student disciplinary reporting practices. This is especially so if schools' motivations for this policy shift include a desire to functionally outsource responsibility for student discipline to law enforcement agencies. Making matters worse is that referrals of student incidents to law enforcement—particularly lower-level, non-violent, student incidents that were traditionally handled “in-house”—often set in motion a series of legal events that can culminate in ways that deleteriously impact students' lives. Operationalizing this first general claim—that schools' approach to student discipline is becoming increasingly legalized—contributes to the following hypothesis: as a school's SRO/police presence increases, so too does the probability that the school will report student discipline incidents to law enforcement agencies.

Persuaded that policy costs associated with schools' increasingly legalized approach to student discipline outweigh the benefits, many critics quickly advance a second general claim: such a policy's costs distribute unequally across various traditional sub-groups of students.⁶ Thus, a second hypothesis—an extension of the first—is that a school's referrals of student disciplinary incidents to law enforcement agencies disproportionately involve students of color, male students, students from low-income households, and other vulnerable student sub-groups.

⁶ See, e.g., Janel George, *Populating the Pipeline: School Policing and the Persistence of the School-To-Prison Pipeline*, 40 NOVA L. REV. 493, 494 (2016) (arguing that “. . . children of color and low-income children . . . are disproportionately targeted for referral and arrest by police in schools”); Amanda Merkwae, *Schooling the Police: Race, Disability, and the Conduct of School Resource Officers*, 21 MICH. J. RACE & L. 147, 180 (2015) (concluding that “there is overwhelming evidence suggesting that students of color and students with disabilities are funneled into the justice system due to the disparate impact of exclusionary discipline polices and discretionary arrests in schools”); Matthew T. Theriot, *School Resource Officers and the Criminalization of Student Behavior*, 37 J. CRIM. JUST. 280, 285–86 (2009) (finding evidence of a relation between school poverty levels and number of student arrests).

Despite both claims having already secured general acceptance in the school-to-prison pipeline literature, we find mixed empirical support when these two claims are subject to data from a recent iteration of the nation's leading cross-sectional data set on public school crime and safety, the U.S. Department of Education's 2015–16 School Survey on Crime and Safety (“SSOCS”).⁷ With respect to the first claim, we find evidence that increases in a school's SRO/police presence corresponds with increases in the rate of school referrals of student disciplinary incidents to law enforcement. Our findings on this first claim generally comport with prior studies that analyze earlier versions of the SSOCS data set.⁸

At the same time, however, we do not find *direct* empirical support for the second claim: that school reports of student incidents to law enforcement systematically distribute unevenly across various student sub-groups. Direct evidence on this specific claim is simply not possible owing to the absence in the SSOCS data set of any individual-level demographic data (e.g., race/ethnicity, gender, socio-economic status) on students whose conduct triggered a school referral to law enforcement. This hypothesis certainly remains a viable possibility, as supportive anecdotal and related evidence exists.⁹

Our narrower point is that there is no direct empirical support from the SSOCS data set that school referrals to law enforcement agencies raise

⁷ Various results also derive from the 2009–10 restricted-use version of the SSOCS data series.

⁸ See, e.g., Nance, *Students*, *supra* note 3, at 969–70; Torres & Stefkovich, *supra* note 3, at 461–63; Na & Gottfredson, *supra* note 3, at 17–22.

⁹ See Nance, *Students*, *supra* note 3, at 973 (noting that while the SSOCS data do not permit identification of the students who were actually referred to law enforcement, it remains “entirely possible” that the school referrals were “disproportionately students of color”); see also DANIEL J. LOSEN, NAT’L POLICY CTR., DISCIPLINE POLICIES, SUCCESSFUL SCHOOLS, AND RACIAL JUSTICE 6–7 (2011), <https://www.civilrightsproject.ucla.edu/research/k-12-education/school-discipline/discipline-policies-successful-schools-and-racial-justice> [https://perma.cc/RG7X-RDQA]; Catherine P. Bradshaw, Mary M. Mitchell, Lindsey M. O’Brennan & Philip J. Leaf, *Multilevel Exploration of Factors Contributing to the Overrepresentation of Black Students in Office Disciplinary Referrals*, 102 J. EDUC. PSYCH. 508, 508 (2010) (discovering that after controlling for teacher ratings of students’ behavior problems, African American students were more likely than white students to be referred to the office for disciplinary reasons); Michael Rocque & Raymond Paternoster, *Understanding the Antecedents of the “School-to-Jail” Link: The Relationship Between Race and School Discipline*, 101 J. CRIM. L. & CRIMINOLOGY 633, 653–54 (2011) (documenting that African American students are more likely than white students to be disciplined even after taking into account other salient factors such as grades, attitudes, gender, special education or language programs, and their conduct in school).

troubling distributional issues.¹⁰ Moreover, the weight of the *indirect* evidence from school-level data also does not hint at any troubling distributional outcomes.¹¹ Notably, the paucity of supportive empirical evidence on this point contrasts with broader scholarly and public claims about uneven distributions of school discipline across various student sub-groups.¹²

¹⁰ Language in at least one published paper invites some level of confusion by potentially advancing claims, albeit tentatively, about the disproportionate impacts on minority student sub-groups based on data on schools' overall racial/ethnic, gender, and special education needs compositions. See Na & Gottfredson, *supra* note 3, at 23 (“We conclude that the results of our tests of interaction with percent in special education and percentage minority do not suggest a pattern of disproportionate impact of police use on socially or educationally disadvantaged populations.”). While perhaps such analyses provide not-implausible inferential support, without individual-level racial/ethnic, gender and special education needs data on the actual students referred to law enforcement agencies, more efficacious and helpful conclusions are simply not possible given the data limitations. Contributing to the confusions is that the Na & Gottfredson paper is aware of the unit of analysis limitation in the SSOCS data sets. See *id.* at 23–24 (“However, finer-grained analysis conducted at the individual-level might uncover patterns that our school-level analysis could not.”).

¹¹ For similar results from earlier SSOCS data sets see, e.g., Nance, *Students*, *supra* note 3, 972–73 (analyzing 2009–10 SSOCS data); Na & Gottfredson, *supra* note 3, at 23 (analyzing 2003–04, 2005–06, and 2007–08 SSOCS data sets). See Michael Heise & Jason P. Nance, *To Report or Not to Report: Data on Schools, Student Discipline, and a “School to Prison Pipeline,”* CORNELL LEGAL STUD. RSCH. PAPER NO. 20-39 (2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3677247 for an extended discussion of possible reasons why student incidents reported to law enforcement do not distribute unevenly across student racial sub-groups, which is particularly surprising in light of substantial empirical support demonstrating that racial disparities persist in other areas of education, the criminal justice system, and society generally.

¹² See Erik J. Girvan, *Towards A Problem-Solving Approach to Addressing Racial Disparities in School Discipline Under Anti-Discrimination Law*, 50 MEMPHIS L. REV. (forthcoming 2020) (providing an overview of racial disparities that exist in school exclusionary discipline); Russell J. Skiba, Robert S. Michael, Abra Carroll Nardo & Reece L. Peterson, *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*, 34 URB. REV. 317, 319–20 (2002) (describing the overrepresentation of African American students in the administration of school discipline); John M. Wallace, Jr., Sara Goodkind, Cynthia M. Wallace, & Jerald G. Bachman, *Racial, Ethnic, and Gender Differences in School Discipline Among U.S. High School Students: 1991–2005*, 59 NEGRO EDUC. REV. 47, 48 (2008) (finding that Black, Hispanic, and American Indian students are more likely to be subject to exclusionary discipline than White and Asian American students); Jayanti Owens, *Early Childhood Behavior Problems and the Gender Gap in Educational Attainment in the United States*, 89 SOCIO. EDUC. 236, 253–54 (2016) (explaining that “[i]mplicit stereotypes may lead to increased grade retention and disproportionately harsh discipline, such as school suspension or expulsion”); Lauren Camera, *Boys Bear the Brunt of School Discipline*, U.S. NEWS & WORLD REP. (June 22, 2016), <https://www.usnews.com/news/articles/2016-06-22/boys-bear-the-brunt-of-school-discipline> [<https://perma.cc/UD9Q-SKVG>] (explaining that “the same behavior problems in boys and girls were penalized a lot more in boys than girls”).

Our Essay unfolds as follows. Part II briefly summarizes the relevant research literature. Part III describes our data and empirical strategy. We present our results in Part IV and consider their legal and policy implications. Part V concludes and considers how current public debates on school SRO/police programs can be informed by available empirical evidence.

II. LITERATURE REVIEW

A. THE INCREASED INTERSECTIONS BETWEEN SCHOOLS AND THE CRIMINAL JUSTICE SYSTEM

Over the last few decades, intersections between schools and the criminal justice system have increased significantly. These intersections helped prompt the emergence of various policies and practices that have resulted in more students becoming part of the criminal justice system, either as youth or when they reach adulthood. Such policies and practices include state statutes that require schools to notify law enforcement when students engage in certain wrongful acts. For example, many states require schools to report students to law enforcement when students commit violent acts such as sexual assault,¹³ armed robbery,¹⁴ and attacking another student with a weapon.¹⁵ Several states also require schools to report students to law enforcement for various nonviolent crimes, such as possession of illegal drugs,¹⁶ possession of alcohol,¹⁷ theft,¹⁸ and vandalism.¹⁹ Other states require schools to report students to law enforcement for the commission of any felony or misdemeanor.²⁰

State statutes that criminalize adolescent misbehavior in schools also directly increase student engagement with the criminal justice system. For

¹³ *See, e.g.*, ARIZ. REV. STAT. ANN. § 15-341 (2018); FLA. STAT. § 1012.799 (2018); N.C. GEN. STAT. § 115C-288 (2018).

¹⁴ *See, e.g.*, MICH. COMP. LAWS § 380.1308 (2018); MO. REV. STAT. § 160.261 (2018); N.H. REV. STAT. ANN. § 193-D:4 (2018).

¹⁵ *See, e.g.*, ARK. CODE ANN. § 6-17-113 (2018); CAL. EDUC. CODE § 48902 (West 2018); DEL. CODE ANN. TIT. 14, § 4112(b)(3).

¹⁶ *See, e.g.*, CONN. GEN. STAT. § 10-221 (2018); GA. CODE ANN. § 20-2-1184 (2018); 105 ILL. COMP. STAT. 5/10-22.6 (2018).

¹⁷ *See, e.g.*, IDAHO CODE § 33-210 (2018); NEB. REV. STAT. § 79-267 (2018); N.J. STAT. ANN. § 6A:16-6.4 (West 2018).

¹⁸ *See, e.g.*, HAW. REV. STAT. § 302A-1002 (2018); N.H. REV. STAT. ANN. § 193-D:4 (2018); 24 PA. CONS. STAT. § 13-1303A (2018).

¹⁹ *See, e.g.*, KY. REV. STAT. ANN. § 158.154 (2018); 24 PA. CONS. STAT. § 13-1303A (2018).

²⁰ *See, e.g.*, ALASKA STAT. § 14.33.130 (2018); KAN. STAT. ANN. § 72-6143 (2018); MD. CODE REGS. 13A.08.01.15 (2018); N.Y. EDUC. LAW § 2801(2)(h) (McKinney 2018).

example, many states have passed so-called “disturbing school” statutes,²¹ which can criminalize ordinary student misbehavior such as burping in class²² or texting in class and refusing to turn over a cell phone.²³ Some estimate that thousands of students are charged each year for violating these statutes.²⁴ Moreover, school exclusionary disciplinary practices, including suspension and expulsion, often are associated with increased student involvement with the criminal justice system. When students are not in school, they are more likely to be left at home unsupervised, which can sometimes lead to involvement in criminal activity.²⁵

Predictably, strong relationships exist between exclusionary discipline practices and a student’s involvement in the criminal justice system as an adult.²⁶ Students suspended in school are more likely to be arrested at some future point than those who are never suspended, even after controlling for other variables that might explain increased odds of arrest.²⁷ Exclusionary discipline practices are also associated with academic underachievement and failing to graduate from high school,²⁸ and failing to graduate from high

²¹ See, e.g., ARIZ. REV. STAT. ANN. § 13-2911 (2018); CAL. PENAL CODE § 415.5 (West 2018); FLA. STAT. § 871.01 (2018); WASH. REV. CODE ANN. § 28A.635.030 (West 2018); see also Josh Gupta-Kagan, *The School-to-Prison Pipeline’s Legal Architecture: Lessons from the Spring Valley Incident and Its Aftermath*, 45 *FORDHAM URB. L.J.* 83, 103 (2017).

²² See *A.M. v. Holmes*, 830 F.3d 1123, 1129–30 (10th Cir. 2016), *cert. denied*, 137 S. Ct. 2151 (2017).

²³ See *G.M. ex rel. B.M. v. Casalduc*, 982 F. Supp. 2d 1235, 1240 (D.N.M. 2013).

²⁴ Amanda Ripley, *How America Outlawed Adolescence*, *ATLANTIC* (Nov. 2016), <https://www.theatlantic.com/magazine/archive/2016/11/how-america-outlawed-adolescence/501149/> [<https://perma.cc/EGN2-2JKD>]; Gupta-Kagan, *supra* note 21, at 103.

²⁵ American Academy of Pediatrics, *Out-of-School Suspension and Expulsion*, 112 *PEDIATRICS* 1206, 1207 (2003); see also TONY FABELO ET AL., *BREAKING SCHOOLS’ RULES: A STATEWIDE STUDY OF HOW STUDENT DISCIPLINE RELATES TO STUDENTS’ SUCCESS AND JUVENILE JUSTICE INVOLVEMENT* 26, 31–32, 70 (2011), https://csgjusticecenter.org/wp-content/uploads/2020/01/Breaking_Schools_Rules_Report_Final.pdf [<https://perma.cc/92YZ-3J7R>].

²⁶ Thomas Mowen & John Brent, *School Discipline as a Turning Point: The Cumulative Effect of Suspension on Arrest*, 53 *J. RSCH. CRIME & DELINQUENCY* 628, 642–43 (2016); Kerrin C. Wolf & Aaron Kupchik, *School Suspension and Adverse Experiences in Adulthood*, 34 *JUST. Q.* 407, 421–22 (2017); Tracey L. Shollenberger, *Racial Disparities in School Suspension and Subsequent Outcomes: Evidence from the National Longitudinal Survey of Youth 1997*, in *CLOSING THE SCHOOL DISCIPLINE GAP: EQUITABLE REMEDIES FOR EXCESSIVE EXCLUSION* 31, 36–40 (Daniel J. Losen ed., 2015).

²⁷ Mowen & Brent, *supra* note 26, at 642–43; Wolf & Kupchik, *supra* note 26, at 421–22.

²⁸ See, e.g., FABELO ET AL., *supra* note 25, at 54–59 (finding that students experiencing exclusionary discipline, who otherwise had statistically identical profiles to those who had not experienced exclusionary discipline, were more likely to drop out of school); Robert Balfanz, Vaughan Byrnes, & Joanna Fox, *Sent Home and Put Off Track: The Antecedents*,

school is associated with involvement in the criminal justice system, either as a youth or as an adult.²⁹

One extreme form of exclusionary discipline practices that have received considerable national attention are so-called “zero tolerance” policies. The Gun-Free Schools Act of 1994 required state legislatures to pass statutes that expelled students for at least one year for bringing a firearm on school property as a condition for receiving federal education funds.³⁰ The Act validated the practice of “zero tolerance” and precipitated a new disciplinary mindset in many school districts across the nation.³¹ “Zero tolerance” policies require schools to administer specific disciplinary consequences regardless of the surrounding circumstances, the severity of the conduct, or the results of the behavior.³² These policies now extend beyond bringing a gun to campus and apply to infractions such as possession of illegal substances, sharp objects, and over-the-counter medication, dress code violations, tardiness, truancy, and fighting.³³ “Zero tolerance” policies have led to severe disciplinary consequences for behavior such as bringing cough drops, fingernail clippers, scissors, squirt guns, and pocketknives to school; drawing a picture of a weapon; authoring a violent story; and

Disproportionalities, and Consequences of Being Suspended in the Ninth Grade, 5 J. APPLIED RSCH. ON CHILD. 1, 9 (2014) (finding that after controlling for course performance, attendance, and student demographics, a single suspension in the ninth grade increased the odds of dropping out of school (from 16% to 32%), and each additional suspension increased the odds by 20%); see also Jeffery H. Lamont, Am. Acad. of Pediatrics, *Policy Statement: Out-of-School Suspension and Expulsion*, 131 PEDIATRICS e1000, e1001 (2013); Girvan, *supra* note 12.

²⁹ See NAT’L CTR. JUV. JUST., JUVENILE OFFENDERS AND VICTIMS: 2014 NATIONAL REPORT 15 (Melissa Sickmund & Charles Puzzanchera eds., 2014) (explaining that high school dropouts are more likely to be institutionalized than those who are more educated), <https://www.ojjdp.gov/ojstatbb/nr2014/> [<https://perma.cc/LW94-TUW6>]; CLIVE R. BELFIELD, HENRY M. LEVIN & RACHEL ROSEN, ECONOMIC VALUE OF OPPORTUNITY YOUTH 20 (2012) (observing that “[e]ducation levels are strongly correlated with criminal activity”), https://aspencommunitysolutions.org/wp-content/uploads/2018/07/Economic_Value_of_Opportunity_Youth_Report.pdf [<https://perma.cc/BN29-82R8>].

³⁰ 20 U.S.C. § 7961 (2020).

³¹ See Udi Ofer, *Criminalizing the Classroom: The Rise of Aggressive Policing and Zero Tolerance in New York City Public Schools*, 56 N.Y. L. SCH. L. REV. 1373, 1376 (2011–) (explaining that “[p]assage of the Gun-Free Schools Act signaled an important validation of zero tolerance school discipline practices by the federal government”).

³² Am. Psych. Ass’n Zero Tolerance Task Force, *Are Zero Tolerance Policies Effective in Schools? An Evidentiary Review and Recommendations*, 63 AM. PSYCH. 852, 852 (2008).

³³ See generally CATHERINE Y. KIM, DANIEL J. LOSEN & DAMON T. HEWITT, THE SCHOOL-TO-PRISON PIPELINE: STRUCTURING LEGAL REFORM 79–80 (2010) (describing the expansion of zero tolerance policies beyond expulsions for possessing firearms).

pretending to shoot a gun with one's hands.³⁴ Scholars and youth advocates have criticized zero tolerance policies as ineffective, counterproductive, and unnecessarily putting students at risk of increased association with the criminal justice system.³⁵

Significantly, many scholars and commentators also have pointed out that increased intersections between schools and the criminal justice system impact student groups differently. For example, studies imply that schools serving higher concentrations of students of color are comparatively more likely to employ various combinations of surveillance measures.³⁶ These findings largely persist even after controlling for other school characteristic and student demographic information such as student poverty, percentage of students performing poorly on academic assessments, school crime, school disorder and disciplinary problems, and school administrators' perceptions of the level of criminal activity in the neighborhoods in which the schools reside.³⁷

³⁴ See DEREK W. BLACK, *ENDING ZERO TOLERANCE: THE CRISIS OF ABSOLUTE SCHOOL DISCIPLINE 2-4* (2016).

³⁵ See, e.g., Am. Psych. Ass'n Zero Tolerance Task Force, *supra* note 32, at 857; Derek W. Black, *The Constitutional Limit of Zero Tolerance in Schools*, 99 MINN. L. REV. 823, 837-41 (2015); ADVANCEMENT PROJECT, HARV. UNIV., *OPPORTUNITIES SUSPENDED: THE DEVASTATING CONSEQUENCES OF ZERO TOLERANCE AND SCHOOL DISCIPLINE 17* (2000), <https://civilrightsproject.ucla.edu/research/k-12-education/school-discipline/opportunities-suspended-the-devastating-consequences-of-zero-tolerance-and-school-discipline-policies/crp-opportunities-suspended-zero-tolerance-2000.pdf> [https://perma.cc/XY9G-FKC4].

³⁶ See Jason P. Nance, *Student Surveillance, Racial Inequalities, and Implicit Racial Bias*, 66 EMORY L. J. 765, 805-11 (2017) (finding that "higher concentrations of minority students are predictive of greater odds that schools rely on . . . designated combinations of security measures"); Jason P. Nance, *Students, Security, and Race*, 63 EMORY L. J. 1, 27-43 (2013) (finding that "a school's percentage of minority students is a strong predictor of whether a school uses a combination of strict security measures"); see also Jeremy D. Finn & Timothy J. Servoss, *Security Measures and Discipline in American High Schools*, in *CLOSING THE SCHOOL DISCIPLINE GAP: EQUITABLE REMEDIES FOR EXCESSIVE EXCLUSION 44*, 49 (Daniel J. Losen ed., 2015) (finding that "the percentage of Black students enrolled was more highly related to security levels than was any other characteristic"); Timothy J. Servoss & Jeremy D. Finn, *School Security: For Whom and with What Results?*, 13 LEADERSHIP & POL'Y IN SCHS. 61, 80 (2014) ("In sum, a high proportion of Black students in a school is related to the degree of security the school implements above and beyond all other characteristics we studied."); Katarzyna Steinka-Fry, Benjamin Fisher & Emily Tanner-Smith, *Visible School Security Measures Across Diverse Middle and High School Settings: Typologies and Predictors*, 11 J. OF APPLIED SEC. RSCH. 422, 424 (2016) (finding that a school's use of intense security measures was associated with serving higher concentrations of African American and low-income students).

³⁷ Nance, *Student Surveillance*, *supra* note 36, at 805-11; Nance, *Students, Security, and Race*, *supra* note 36, at 32-41; Finn & Servoss, *supra* note 36, at 49; Finn & Servoss, *supra* note 36, at 79-80.

B. THE GROWING SRO/POLICE PRESENCE IN PUBLIC SCHOOLS

A key component of the increased intersections between schools and the criminal justice system involves the growing SRO/police presence in public schools. Many schools rely on SRO/police officers to assist with student surveillance, deter school violence and student misbehavior, and help create an orderly school environment.³⁸ The National Association of School Resource Officers (NASRO) believes that “[s]chool-based policing is the fastest-growing area of law enforcement.”³⁹ Evidence documenting claims of a steadily growing police presence in public schools remains largely uncontested. While in the late 1970s the total number of police officers assigned to public schools was fewer than 100,⁴⁰ by 2007 the number approached almost 20,000.⁴¹

Complementing the growth in the raw number of SRO/police assigned to schools is the increasing percentage of schools that report a police presence. More precise estimates of this increase derive from SSOCS data sets. For example, 2007–08 SSOCS data (weighted) reveal an SRO/police official was present at least one day a week in 21.1% of the sampled schools.⁴² The 2015–16 SSOCS data set reveals that in less than one decade the percentage (50%) more than doubled.⁴³ While both the absolute growth

³⁸ In 2002, the U.S. Department of Justice sponsored a survey to identify the reasons why schools had SROs. See LAWRENCE F. TRAVIS III & JULIE K. COON, CENT. FOR CRIMINAL JUST. RSCH. UNIV. CINCINNATI, *THE ROLE OF LAW ENFORCEMENT IN PUBLIC SCHOOL SAFETY: A NATIONAL SURVEY* 85 (2005), <https://www.ncjrs.gov/pdffiles1/nij/grants/211676.pdf> [<https://perma.cc/PV9H-J96N>]. Forty-two percent of the principals surveyed indicated that “[n]ational media attention about school violence” was the primary reason; 17.5% indicated “[d]isorder problems (e.g., rowdiness, vandalism); 6.1% indicated that “[p]arents wanted an officer in the school;” 3.7% indicated that it was the “[l]evel of violence in the school;” and 48.2% indicated that it was for “[o]ther” reasons. *Id.* at 85. See also F. CHRIS CURRAN, BENJAMIN W. FISHER, SAMANTHA L. VIANO & AARON KUPCHIK, *UNDERSTANDING SCHOOL SAFETY AND THE USE OF SCHOOL RESOURCE OFFICERS IN UNDERSTUDIED SETTINGS* 18–22 (2020) (describing activities of SROs in schools), <https://www.ncjrs.gov/pdffiles1/nij/grants/254621.pdf> [<https://perma.cc/5RTL-LAU5>].

³⁹ *About NASRO*, NAT’L ASS’N SCH. RESOURCE OFFICERS, <https://www.nasro.org/main/about-nasro/> [<https://perma.cc/J69E-A8UG>] (last visited Apr. 23, 2020).

⁴⁰ Nance, *Students*, *supra* note 3, at 946; Kevin P. Brady, Sharon Balmer & Deinya Phenix, *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); Paul J. Hirschfield & Katarzyna Celinska, *Beyond Fear: Sociological Perspectives on the Criminalization of School Discipline*, 5 SOCIO. COMPASS 1, 1 (2011).

⁴¹ NATHAN JAMES & GAIL MCCALLION, CONG. RSCH. SERV., R43126, *SCHOOL RESOURCE OFFICERS: LAW ENFORCEMENT OFFICERS IN SCHOOLS* 5 (2013), <https://fas.org/sgp/crs/misc/R43126.pdf> [<https://perma.cc/Y2Z6-Q9SA>].

⁴² For a general description see, e.g., Na & Gottfredson, *supra* note 3, at 14.

⁴³ See *infra* Sub-Part III, tbl.1 (displaying results from weighted sample).

in the number of SRO/police officers working in schools as well as in the relative share of schools that use them in schools are well understood, reasons explaining these growth trends are comparatively less understood. Scholars observe that schools' reliance on SRO/police has increased in tandem with their reliance on criminal justice-oriented measures and punitive disciplinary policies generally for the reasons discussed above.⁴⁴ Many point specifically to rising youth crime rates from the mid-1980s to 1994 as well as to highly-publicized incidents of school violence as major driving forces for the increase.⁴⁵

Another likely source of this growth involves the availability of public funds to hire SRO/police officers. In the aftermath of the tragic shootings at Columbine High School the U.S. Department of Justice's Office of Community Policing Services initiated and implemented the "COPS in Schools" grant program in 1999.⁴⁶ According to the most recent publicly-available financial data, the COPS program has awarded in excess of \$914 million in grants to help hire more than 7,967 SROs.⁴⁷ Additional federal funding sources include a collaborative effort involving the U.S. Departments of Justice, Education, and Health and Human Services. During its first decade (1999–2009), the resultant "Safe Schools/Healthy Students" program has provided more than \$2.1 billion in an array of programs,

⁴⁴ See *supra* Sub-Part II.

⁴⁵ See, e.g., CURRAN, FISHER, VIANO, & KUPCHIK, *supra* note 38, at 16–17; Ben Brown, *Evaluations of School Policing Programs*, in THE PALGRAVE INTERNATIONAL HANDBOOK OF SCHOOL DISCIPLINE, SURVEILLANCE, AND SOCIAL CONTROL 327, 327 (Jo Deakin et al. eds., 2018); Josh Gupta-Kagan, *Reevaluating School Searches Following School-to-Prison Pipeline Reforms*, 87 FORDHAM L. REV. 2013, 2015 (2019); Theriot, *supra* note 6, at 280. Following the school shooting in Parkland, Florida in 2018, the Florida State Legislature mandated that "each district school board and school district superintendent shall partner with law enforcement agencies or security agencies to establish or assign one or more safe-school officers at each school facility within the district . . ." FLA. STAT. ANN. § 1006.12 (West 2020).

⁴⁶ For a general description see, e.g., Na & Gottfredson, *supra* note 3, at 2–3.

⁴⁷ MARIEKE BROCK, NORMA KRIGER & RAMÓN MIRÓ, SCHOOL SAFETY POLICIES AND PROGRAMS ADMINISTERED BY THE U.S. FEDERAL GOVERNMENT: 1990–2016, at 78, 79, 81 (2018), <https://www.ncjrs.gov/pdffiles1/nij/grants/251517.pdf> [<https://perma.cc/U363-V6YG>].

including those that help fund SROs in schools.⁴⁸ Several states also provide funding to support bringing SROs into schools.⁴⁹

Interestingly, decisionmakers continue to place more SRO/police into the nation's schools even though strikingly little is known about SRO/police officers' effectiveness in terms of increasing school safety and decreasing school violence and crime.⁵⁰ To be sure, it remains difficult to over-emphasize the benefits associated with increases in school safety and decreases in school violence and crime. While whether bolstering a school's SRO/police presence, in fact, contributes to realizing such goals remains uncertain, evidence of possible negative costs attributable to a school's SRO/police presence is comparatively less uncertain and warrants attention.

C. EMPIRICAL ASSESSMENTS OF SRO/POLICE PRESENCE IN SCHOOLS

Framed by research literatures exploring the concurrent growth of "high stakes" student discipline policies and the growing presence of SRO/police in schools, our Essay seeks to directly engage with the nascent empirical literature. Specifically, we explore the potential relations between the presence of SRO/police in a school and that school's probability of referring student discipline matters to law enforcement agencies.

In leading earlier empirical work on this topic one of the authors of this Essay finds that "a police officer's regular presence at a school is predictive of greater odds that [such] school officials refer students to law enforcement . . . , including [for] seemingly minor offenses."⁵¹ While Nance's prior work remains important, it uses an earlier (2009-10) SSOCS data set. Moreover, Nance's earlier analyses rely on raw rather than weighted data, do not include per pupil spending information, and pursue slightly different empirical strategies than those pursued here. Any technical or

⁴⁸ U.S. Dep't of Educ., *U.S. Department of Education Awards More Than \$32.8 Million to Promote Safe Schools, Healthy Students* (July 10, 2009), <https://www.ed.gov/news/press-releases/us-department-education-awards-more-328-million-promote-safe-schools-healthy-students> [<https://perma.cc/5W3N-EJ4G>].

⁴⁹ See, e.g., ALA. CODE § 41-15B-2.2 (2020) (allocating funding for "safety plans involving the use of metal detectors, other security devices, uniforms, school safety resource officers, or other personnel employed to provide a safe school environment"); 24 PA. STAT. AND CONS. STAT. § 13-1302-A (West 2020) (authorizing grants to cover costs associated with compensating school resource officers); TENN. CODE ANN. § 49-6-4302 (West 2020) (mandating that the "Tennessee school safety center . . . establish school safety grants to assist LEAs in funding programs that [include] . . . school resource officers . . .").

⁵⁰ See, e.g., JAMES & MCCALLION, *supra* note 41, at 9; see also Na & Gottfredson, *supra* note 3, at 5-6 (criticizing most evaluations of SRO programs as limited to descriptive statistics and various self-reported perceptions of school and student safety).

⁵¹ Nance, *Students*, *supra* note 3, at 927.

coding adjustments notwithstanding, in many ways this Essay seeks, in part, to update, expand, and build upon Nance's earlier work.

Other scholars have also exploited earlier versions of the SSOCS data set. Na and Gottfredson, for example, drew from the 2007-08 SSOCS data set and found results that generally comport with Nance's subsequent study finding a positive relation between the number of SRO/police officers at a school and that school's likelihood of reporting student incidents to law enforcement.⁵² Unlike Nance's study, Na and Gottfredson's models do not control for such factors as a state's mandatory reporting requirements. Despite important methodological limitations, Na and Gottfredson went on to conclude, in part, that the addition of police officers in schools correlated with a move to "redefine disciplinary situations as criminal justice problems rather than social, psychological, or academic problems, and accordingly increases the likelihood that students are arrested at school."⁵³ As it relates to the "conventional wisdom" surrounding concerns with distributional issues incident to the "school-to-prison pipeline" hypothesis, Na and Gottfredson found "no evidence of adverse impact of police officer presence on minority groups or on special education populations."⁵⁴ Of course, Na and Gottfredson's conclusion pivots on *school-level* racial/ethnic (and other) data as opposed to *student-level* data on the *actual students* involved in school reports to law enforcement agencies. Nance, using similar SSOCS data sets, concluded that strong distributional claims about school reporting practices were not prudent given the data limitations.⁵⁵

Aside from our own work⁵⁶ we have thus far not found any other published article that focuses on a possible relation between a school's rate of reporting incidents to law enforcement and the presence and magnitude of law enforcement at the schools using the more recent 2015-16 SSOCS data set.⁵⁷ We are similarly unaware of any published work that includes

⁵² It is perhaps worth noting that in supplemental analyses Na and Gottfredson drew on even earlier SSOCS data sets (2003-04, 2005-06, 2007-08). See Na & Gottfredson, *supra* note 3, at 19 (tbl.2).

⁵³ *Id.* at 24.

⁵⁴ *Id.*

⁵⁵ See, e.g., Nance, *Students*, *supra* note 3, at 973 (noting that while the SSOCS data do not permit identification of the students who were actually referred to law enforcement, it remains "entirely possible" that the school referrals were "disproportionately students of color").

⁵⁶ See Heise & Nance, *supra* note 3.

⁵⁷ We want to acknowledge that the U.S. Dep't of Educ. has published a report that both promotes and summarizes a few variables from the SSOCS 2017-18 data set. See MELISSA Diliberti, MICHAEL JACKSON, SAMUEL CORREA & ZOE PADGETT, *Crime, Violence, Discipline, and*

statistical controls for state reporting requirements and student per pupil spending.

III. DATA AND EMPIRICAL STRATEGY

Our study exploits the nation's leading cross-sectional data set on public school crime and safety and supplements those data with complementary information from other data sets. We test our research hypotheses by estimating fractional response regression models.

A. DATA

The main source of data for this study draws from the U.S. Department of Education's School Survey on Crime and Safety for the 2015–16 school year ("SSOCS").⁵⁸ We use the restricted-access version of the SSOCS data set that benefits from more granular school-level counts of the number of incidents that schools reported to law enforcement agencies as well as the number of full- and part-time SRO/police officers at each school.⁵⁹

To construct its sample, drawn from the universe of American public K-12 schools, the National Center for Education Statistics ("NCES") exploited the 2013–14 school year Common Core of Data Public Elementary/Secondary School Universe File ("CCD")⁶⁰ to help insure that the weighted SSOCS data set reflects a representative sample of American

Safety in U.S. Public Schools: Findings from the School Survey on Crime and Safety: 2017–18 (2019) [<https://perma.cc/B53T-EGL4>].

⁵⁸ Various results discussed in this Essay also derive from the restricted-use version of the 2009–10 SSOCS data series.

⁵⁹ Institute of Education Science, Data Security Office, User License No.19110005. The public version of the SSOCS data set and codebook are available at <https://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2018109> [<https://perma.cc/V6SR-T8N9>]. The restricted-use version of the 2015–16 SSOCS data set includes "a higher level of detail in the data compared to public-use data files."; see *Statistical Standards Program: Getting Started*, NAT'L CTR. FOR EDUC. STAT., https://nces.ed.gov/statprog/instruct_gettingstarted.asp [<https://perma.cc/P7FA-URCE>] (last visited Jan. 16, 2020). Importantly, to align our study with previous studies our focus on SRO/police includes only school resource officers and other sworn law enforcement officials. Our focus on sworn law officials, therefore, excludes any security guards or other individual who may contribute to school safety but who are neither a sworn nor formally trained law enforcement official.

⁶⁰ The Common Core of Data (CCD) "is an annual NCES collection of fiscal and nonfiscal data on all public schools, public school districts, and state education agencies in the United States." NAT'L CTR. FOR EDUC. STAT., U.S. DEP'T OF EDUC., 2015–2016 SCHOOL SURVEY ON CRIME AND SAFETY (SSOCS), Restricted-Use Data File User's Manual 15 (Nov. 2017) [hereinafter "Codebook"] (on file with author). For additional descriptions of the CCD see, e.g., Nance, *Students*, *supra* note 3, 959–60 (describing the CCD); Helen M. Marks & Jason P. Nance, *Contexts of Accountability Under Systemic Reform: Implications for Principal Influence on Instruction and Supervision*, 43 EDUC. ADMIN. Q. 3, 10–11 (2007) (same).

public K-12 schools.⁶¹ Insofar as this study seeks information on “typical” or “regular” schools, those schools classified as something other than “regular” were excluded from analyses.⁶² Finally, to facilitate inferences to the broader universe of “regular” public schools, the approximately 1,890 schools used in the analyses were weighted to generate population-level estimates.⁶³

Our study supplements the SSOCS data set in two important ways that potentially inform the probability of a school reporting an incident to law enforcement agencies. First, we supplement the school-level SSOCS information with state-level information on what circumstances—and for what particular student offenses or incidents—do federal or state laws compel a school to report an incident to law enforcement agencies.⁶⁴ Federal law, for example, mandates that all local education agencies (i.e., school districts) receiving federal education funding pursuant to the Elementary and Secondary Education Act (which includes virtually every “regular” public K-12 school) create and implement a policy “requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school”⁶⁵ Such statutes eliminate (or severely reduce) schools’ discretion insofar as the statutes require them to report certain activities that occur on school property to law enforcement regardless of the surrounding or any mitigating circumstances. At the same time, many state statutes go beyond federally imposed requirements and mandate that schools

⁶¹ The total number of public schools sampled was 3,550; 2,090 schools submitted completed questionnaires for an overall response rate of 62.9% (weighted sample; 58.9% (raw sample)). See Codebook, *supra* note 60, at 1, 28; see also NAT’L CTR. FOR EDUC. STAT., U.S. DEP’T OF EDUC., 2015–2016 SCHOOL SURVEY ON CRIME AND SAFETY (SSOCS), Public-Use Data File User’s Manual 1 (Mar. 2018), <https://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2018107> [<https://perma.cc/SLN9-3TMY>].

⁶² Among the 2,090 schools in the SSOCS data set, 1,890 (or 90.4%) were identified as a “regular public school” (as opposed to public charter or magnet school) and serve as the focus of this study. This Essay’s focus on “regular” public schools is consistent with parallel empirical work, particularly in the school finance literature. See, e.g., IVY MORGAN & ARY AMERIKANER, *FUNDING GAPS 2018: TECHNICAL APPENDIX 3* (2018).

⁶³ Data in most of our analyses used the final analysis weight (“FINALWGT”) variable. Such sample weighting is “necessary to obtain population-based estimates, to minimize bias arising from differences between responding and nonresponding schools, and to calibrate the data to known population characteristics in a way that reduces sampling error.” Codebook, *supra* note 60, at 20.

⁶⁴ In this way our current study more helpfully aligns with Nance’s prior study of 2009–10 SSOCS data. See Nance, *Students*, *supra*, note 3.

⁶⁵ 20 U.S.C. § 7961(b)(1) (2015). See, e.g., FLA. STAT. ANN. § 1006.07(g) (West 2014) (mandating that any student who brings a firearm or weapon to any school function will be referred to the juvenile justice system).

also refer to law enforcement a range of student incidents and offenses that do not involve a firearm or weapon.⁶⁶

The second way we supplement the SSOCS data set involves the inclusion of school district-level data on current per pupil spending. We settled on current expenditures partly as it facilitates comparisons of student investment across the widest array of studies in the school finance literature.⁶⁷ To do so, we matched district-level spending data from the 2016 U.S. Census Bureau's publicly available annual survey of public elementary and secondary schools onto the SSOCS data set.⁶⁸ As well, the school district-level current per pupil spending data were adjusted for cost-of-living variation across the more than 13,000 public school districts with data from the Comparable Wage Index.⁶⁹

B. DEPENDENT VARIABLES

This Essay's analytic focus dwells on the possible relation between the magnitude of a school's SRO/police presence and the school's rate of reporting student disciplinary incidents to law enforcement agencies. To this end, schools reported the total recorded number of student disciplinary incidents that took place at their school during the 2015–16 school year as well as the sub-set of those incidents that resulted in referrals to law enforcement agencies.

The various student discipline incidents that prompted school reports to law enforcement agencies contributed to the creation of two related dependent variables. One captures a school's rate of student incident reports, if any, to law enforcement agencies. Insofar as the types of incidents that schools reported to law enforcement include both violent (e.g., rape and armed robbery) as well as non-violent (e.g., vandalism and possession of alcohol) incidents, we felt that the subset of non-violent student incidents

⁶⁶ See *supra* Part II.

⁶⁷ For a discussion see, e.g., Michael Heise, *Per Pupil Spending and Poverty's Persistent Penalty: An Empirical Analysis of 2016 District-Level NCES Data*, 45 J. EDUC. FIN. 149, 154–57 (2019).

⁶⁸ U.S. CENSUS BUREAU, 2016 PUBLIC ELEMENTARY-SECONDARY EDUCATION FINANCE DATA (2016), <https://www.census.gov/data/tables/2016/econ/school-finances/secondary-education-finance.html> [<https://perma.cc/F23E-TK3T>].

⁶⁹ For a detailed description and explanation of the Comparable Wage Index, see generally LORI L. TAYLOR & WILLIAM J. FOWLER, JR., U.S. DEP'T OF EDUC., NAT'L CTR. FOR EDUC. STAT., A COMPARABLE WAGE APPROACH TO GEOGRAPHIC COST ADJUSTMENT (2006), <https://nces.ed.gov/pubs2006/2006321.pdf> [<https://perma.cc/Q3RB-NX73>]. For a discussion of some of the limitations of the CWI adjustment, see, e.g., Heise, *supra* note 67, at 154–57; Thomas A. DeLuca, *Instructional Spending Metrics: A Multilevel Analysis Using NCES Data*, 44 J. EDUC. FIN. 23, 42 (2018).

warranted close inspection as well. This is especially true because some schools may have been systematically less inclined to report non-violent student incidents to law enforcement agencies. For this reason, we constructed a separate, related dependent variable designed to capture a school's rate of student incident reports to law enforcement for the subset of non-violent student incidents. Our decision to transform raw school report counts into school report rates seeks to account for variation in school size or scale (expressed in terms of student enrollment) across the sampled schools.⁷⁰

A descriptive summary of our dependent variables, presented in Table 1, illustrates that almost one-half (49%) of the schools in our weighted sample reported at least one student incident to law enforcement agencies during the 2015–16 school year. The mean rate of school reports to law enforcement is just under one (0.77) per 100 students.⁷¹ The mean rate of school reports involving non-violent student incidents is well under one-half (0.33) per 100 students.⁷²

C. INDEPENDENT VARIABLES

Insofar as our analytical focus dwells on the possible relation between a school's rate of reporting student incidents to law enforcement agencies and the magnitude of the school's law enforcement presence, our key independent variables of interest relate to a school's SRO/police presence, if any.⁷³ As Table 1 illustrates, one-half of the sampled schools report any law

⁷⁰ Unreported alternative specifications exploring schools' rates of student disciplinary incident reports to police using the square root of the rate as its distribution is less distorted for schools that reported no such incidents. Results from these unreported analyses do not materially differ from our results that derive from non-transformed rates. *See infra*, tbl.2.

⁷¹ Thus, as the mean student enrollment in our school sample is just under 600 students (595.4), on average each school reported just over four (4.6) student incidents. Because only 49% of schools reported any incidents, the effective mean number of incident reports to law enforcement is approximately nine student incidents among those schools that reported any incidents.

⁷² Similarly, as the mean student enrollment in our school sample is just under 600 students (595.4), on average each school reported just under two (1.98) non-violent incidents. Because only 49% of schools reported any incidents, violent or non-violent, the effective mean number of non-violent incident reports to law enforcement is approximately four non-violent incidents among those schools that reported any incidents.

⁷³ Consistent with SSOCs data set coding protocols, a school's SRO/police presence is construed in terms of whether a school has an SRO or sworn law enforcement officer at the school at least one day a week. The SRO/police calculation excludes any security guards or other individuals contributing to school safety who are not sworn law enforcement officers. *See* Institute of Education Science, *supra* note 59.

enforcement presence; the mean SRO/police presence is just under one (0.84) official per school.⁷⁴

In addition to the magnitude of its SRO/police presence, a school's probability of reporting student incidents to law enforcement agencies is certainly also the function of a complex interaction of other variables. The inclusion of such variables is necessary to help control for various factors' influence on schools' student incident reports to law enforcement agencies that are independent of factors located at the focal point of this study—the magnitude of a school's SRO/police presence. The various control variables we consider loosely organize into two general categories: school- and student-level factors.

D. SCHOOL-LEVEL VARIABLES

As we seek to estimate models assessing the probability of a school reporting student incidents to law enforcement agencies, such factors as a school's base "disorder" level and student enrollment "turbulence" within a school, a school's urbanicity score, and an assessment of the general crime level where the school is located are important as they likely inform the school's reporting rates. To measure a school's base "disorder" level we constructed a school disorder variable by indexing a school's total number of recorded student disciplinary incidents (per 100 students).⁷⁵ A school's student enrollment turbulence measure is the percentage of the school's students who either transferred into or out of the school during the 2015–16 school year. As well, school "urbanicity," based on the school's geographic location, is measured on a four-point scale, ranging from "rural" to "urban." Finally, a three-point scale assessing a school's general crime level measure derives from school administrators' perceptions of general crime levels in the geographic area in which their school is located.

While many key variables already account for variation in student enrollment across schools, we include a school's raw student enrollment as a separate independent variable to help capture whether a school's scale exerts any influence on its student discipline reporting behaviors. For similar, though distinct, reasons, we also include a variable measuring each school's

⁷⁴ Insofar as only one-half of the schools in our sample report *any* SRO/police present at least once a week, the effective number of law enforcement officials at schools that report any is approximately 1.6 per school.

⁷⁵ A school's total "recorded" student disciplinary incidents forms the universe from which the subset of student disciplinary incidents that the school "reported" to law enforcement agencies derives. That is, while every school report to law enforcement agencies involved, by definition, a recorded student disciplinary incident, not every recorded student disciplinary incident culminated in a school report to a law enforcement agency.

student-to-teacher ratio. To the extent that smaller schools, or schools benefitting from a higher percentage of adults, specifically teachers, are more likely to facilitate the emergence of a comparatively healthier school “climate” or “culture,” we hypothesize that school reporting to law enforcement agencies is more likely in larger and potentially more impersonal schools.

Along with student enrollment, student-to-teacher ratios, school disruption, and enrollment turbulence, another factor plausibly contributing to a school’s overall climate and culture involves a school’s fiscal strength. For this we turn to a standard proxy, annual (2015–16) current per pupil spending. We do so because we wondered whether variation in the distribution of student investment across schools might contribute to variation in their rate of reporting student incidents to law enforcement agencies. And even if such a relation or its direction are not obvious, school fiscal data may capture other unobservable aspects of a school or its culture that warrant controlling for.

To accomplish this, we exploit the leading source of school district-level per pupil spending data: U.S. Census Bureau’s annual survey of public elementary and secondary schools for financial information⁷⁶ supplemented by the U.S. Department of Education’s National Center for Education Statistics Comparable Wage Index that adjusts for cost-of-living variation across the nation’s public school districts.⁷⁷ We settled on current expenditures partly as it facilitates comparisons of student investment across the widest array of studies in the school finance literature.⁷⁸ As Table 1 makes clear, across all the schools in our sample, mean current per pupil spending exceeded \$11,000 for the sampled schools in 2015–16.

Because mandatory school reporting obligations for various student incidents bear squarely on our dependent variables of interest, our models also control for whether schools were statutorily obligated to report various incident types to law enforcement agencies under prevailing state law.⁷⁹ To

⁷⁶ See U.S. CENSUS BUREAU, COM., *2016 Public Elementary-Secondary Education Finance Data* <https://www.census.gov/data/tables/2016/econ/school-finances/secondary-education-finance.html> [<https://perma.cc/R5P8-HNRU>].

⁷⁷ For a detailed description and explanation of the Comparable Wage Index, see generally LORI L. TAYLOR & WILLIAM J. FOWLER, JR., U.S. DEP’T OF EDUC., NAT’L CTR. FOR EDUC. STAT., *A COMPARABLE WAGE APPROACH TO GEOGRAPHIC COST ADJUSTMENT* (2006), <https://nces.ed.gov/pubs2006/2006321.pdf> [<https://perma.cc/7UDK-FJHH>]. For a discussion of some of the limitations of the CWI adjustment, see, e.g., DeLuca, *supra* note 69, at 42.

⁷⁸ For a discussion, see, e.g., Heise, *supra* note 67, at 154–57.

⁷⁹ Our focus on state-specific mandatory reporting statutes implicitly acknowledges that while application of relevant federal reporting requirements, by definition, should not have

do so, we drew from the relevant statutes and regulations in all 50 states and the District of Columbia. Where a clear and relatively unambiguous mandatory reporting obligation existed, our dummy variable is coded as “1.” To focus our analyses of the sub-pool of non-violent student discipline incidents we include two separate mandatory reporting variables: one for violent student incidents; the other for non-violent incidents.

Finally, even though the majority of public schools in the United States are elementary schools and, as Table 1 illustrates,⁸⁰ our sample reflects this (59% of the sampled schools are elementary schools), the majority of school crime and violence occurs in middle and high schools. Despite the skewed distribution of school crime and violence across school levels, we remain mindful that the Sandy Hook (CT) Elementary School tragedy in December 2012 unfolded only a few years prior to the data gathering efforts that culminated in the 2015–16 SSOCS data set. Consequently, we approached this study with a heightened curiosity about how elementary schools might systematically differ from middle and high schools in terms of their proclivity to report student disciplinary incidents to law enforcement agencies. To explore this we include in our models a dummy variable coded for “1” for elementary schools.⁸¹ Insofar as the reference group for interpreting the elementary school dummy variable includes all “non-elementary” schools,⁸² what we expect to find is that elementary schools report systematically fewer school incidents reports to law enforcement and have a comparatively smaller SRO/police presence.

E. STUDENT-FOCUSED VARIABLES

In addition to the variables summarized above, key student-focused factors, especially those factors reflecting possible student marginalization, likely influence a school’s rate of student incident reporting to law enforcement agencies.⁸³ Factors aligning with various student

varied across the schools in our sample, state-level mandatory reporting requirements, by contrast, did vary.

⁸⁰ For purposes of this study, an “elementary” school is defined to include a regular school whose grade levels range from pre-kindergarten through, but not higher than, eighth.

⁸¹ For purposes of this study, a school facility was coded as an “elementary” school if the highest grade level present in the school facility was at (or below) the eighth grade or lower *and* if the lowest grade level present was at (or below) the third grade.

⁸² This reference group includes all middle and high schools, as well as schools that combine middle and high school grades.

⁸³ *See, e.g.*, DAVID CANTOR & MAREENA M. WRIGHT, U.S. DEP’T OF EDUC., SCHOOL CRIME PATTERNS: A NATIONAL PROFILE OF U.S. PUBLIC HIGH SCHOOLS USING RATES OF CRIME REPORTED TO POLICE 8 (2002), <https://www2.ed.gov/offices/OUS/PES/studies-school->

marginalization theses and inserted into in our models include a school's percentage of all nonwhite (including black) and black students as well as the percentage of students from low-income households.⁸⁴ Moreover, as boys are more likely than girls to trigger school discipline matters, we also control for a school's percentage of male students.⁸⁵ Table 1 presents basic summary statistics on all the variables considered in our various models.

violence/school-crime-pattern.pdf [<https://perma.cc/QH99-ECNG>] (finding that large high schools located in urban areas serving a high percentage of minority students tend to experience more school crime); TRAVIS III & COON, *supra* note 38, at 20 (observing that crime is more common in schools that serve students from disadvantaged background). *See also generally* Nance, *Students*, *supra* note 3; Aaron Kupchik & Geoff K. Ward, *Race, Poverty, and Exclusionary School Security: An Empirical Analysis of U.S. Elementary, Middle, and High Schools*, 12 YOUTH VIOLENCE & JUV. JUST. 332 (2014).

⁸⁴ The students from low-income household variable is construed to include those students eligible to participate in a free- or reduced-lunch program. For a general discussion of various student poverty measures, see, e.g., Heise, *supra* note 67, at 158.

⁸⁵ For example, *compare* Skiba, Michael, Nardo & Peterson, *supra* note 12, at 4 (“In virtually every study presenting school disciplinary data by gender, boys are referred to the office and receive a range of disciplinary consequences at a significantly higher rate than girls”) and Wallace, Goodkind, Wallace & Bachman, *supra* note 12, at 54 (2008) (“Within racial and ethnic subgroups, boys are consistently more likely than girls of the same racial or ethnic group to have experienced school discipline”), *with* Nance, *Students*, *supra* note 3, at 972–73 (reporting “mixed” results as it relates to the influence of various student background characteristics of school incident reports to law enforcement).

Table 1: Summary Descriptive Statistics

	<i>Mean</i>	<i>Std. Dev.</i>
<i>Dep. vars:</i>		
Rate of sch. police reports [all]	0.77	1.92
Rate of sch. police reports [non-violent]	0.33	0.79
<i>Ind. vars:</i>		
Number of full- and part-time SRO/police at school	0.84	2.44
School student:teacher ratio	17.79	23.58
School student mobility % (in/out)	15.05	14.02
School urbanicity scale (rural-to-urban; 1-4)	2.51	1.14
School disorder report rate (per 100 students)	1.57	3.10
School area crime scale (low-to-high; 1-3)	1.31	0.58
School student enrollment	595.4	413.9
Elementary school (1=yes)	0.59	0.49
Mand. sch. violent incident report req. (1=yes)	0.90	0.30
Mand. sch. non-violent incident report req. (1=yes)	0.69	0.46
Sch. student poverty %	56.15	27.29
Sch. student nonwhite %	43.1	32.92
Sch. student black %	12.46	20.91
Sch. student male %	49.7	9.1
Sch. dist. mean per pupil spending (2016 \$s)	11,196	5,153

NOTES: Reported means and standard deviations derive from the SSOCS weighted sample; N (raw)=1,890.

SOURCES: U. S. Dep't Educ., Nat'l Ctr. Educ. Stat., 2015-16 School Survey on Crime and Safety (SSOCS); U.S. Dep't Com., Census Bureau, 2016 Public Elementary-Secondary Education Finance File (2016).

F. EMPIRICAL STRATEGY

Our principal research question considers whether the magnitude of a school's SRO/police presence influences a school's propensity to report student discipline incidents to law enforcement agencies. To investigate this question, we estimate fractional response regression models of a continuous

rate (or fractional) variable—the rate of school incident reports to law enforcement—that is bounded between zero and one.⁸⁶

G. DATA AND EMPIRICAL STRATEGY LIMITATIONS

While the SSOCS persists as the nation’s leading source of data on public school crime and safety, it is not without limitations. For example, while data exist on a variety of school- and student-level measures, including a school’s gender and racial/ethnic profiles, the data set does not include gender or racial information on the actual students involved in the disciplinary incidents that triggered school reports to law enforcement agencies. The absence of such information functionally precludes precise inferences about whether schools’ student incident reporting practices distributed in ways that skew at the individual-level against, for example, boys, racial/ethnic minorities, or students from low-income households.

Similarly, in the absence of particularized and follow-up data on those individuals who engaged in the conduct that motivated school reports to law enforcement agencies, we cannot know what actually happened to those students reported. As difficult as it might be to imagine that *all* such students were arrested and convicted, it is equally difficult to imagine that *none* of them were. Moreover, the SSOCS data set similarly precludes analyses of how the array of possible outcomes—arrest, conviction, or release without arrest—distributed across those students referred to law enforcement agencies by their schools.

In terms of our overall empirical strategy, we remain mindful that research design limitations preclude our findings from supporting any strong causal claims. In a more perfect world, to assess any possible causal relations between a school’s rate of reporting student discipline incidents to law enforcement agencies and the magnitude of law enforcement officials at the schools we would, for example, randomly assign SRO/police to otherwise identical schools (that is, “identical” as it relates to our various dependent variables of interest). Our lack of control over randomization precludes us from assessing casual direction with precision. For example, the number of

⁸⁶ Insofar as our dependent variable is a rate (or fraction) bounded between zero and one (inclusive), we favored fractional response regression models. Owing to the possibility of overdispersion, and in an abundance of caution, we also considered two alternative specifications in an effort to ensure that our core results were robust to model specification. Unreported results from a binominal regression model as well as a negative binominal regression model using actual raw school-level count data do not materially differ from results presented in tbl.2, *infra*. For examples of a similar empirical strategy, see, e.g., Daniel Hamlin & Angran Li, *The Relationship Between Parent Volunteering in School and School Safety in Disadvantaged Urban Neighborhoods*, 19 J. SCHOOL VIOLENCE 362, 366–68 (2020).

SRO/police at a school may be a product of pre-existing student disruption, crime levels, or student disciplinary incidents. Similarly, it is also plausible that the presence of SRO/police at the school itself may inform a school's rate of incident reporting to law enforcement agencies.

As a second-best empirical strategy, we are limited to exploiting a rich array of control variables designed to help disentangle the complex relations between and among our dependent and key independent variables of interest. For example, as it specifically relates to our hypotheses on a relation between SRO/police at a school and that school's student incident reporting to law enforcement agencies, our models seek to control for other likely factors that bear on a school's probability of reporting incidents to law enforcement. While these important data and research design factors preclude strong causal claims, we feel that our results are positioned to contribute to the existing knowledge base on school crime and safety.⁸⁷

IV. RESULTS AND DISCUSSION

Table 2 reveals a statistically significant relation between the size of the SRO/police presence at a school and that school's rate of student disciplinary referrals to law enforcement agencies. An increase in the size of a school's SRO/police presence consistently and strongly correlates with an increase in the school's rate of law enforcement agency referrals. And this result emerges for all student disciplinary incidents as well as for the subset of non-violent incidents. While we introduce separate analyses for non-violent student incidents on the theory that schools may be more comfortable with handling such incidents "in-house" and might have a history of doing so, when it comes to law enforcement reporting, results in Table 2 suggest that schools appear to have treated violent and non-violent student discipline incidents similarly.

Results in Table 2 also introduce a second general theme that persists across our analyses: an overall paucity of statistically significant findings for an array of school-level variables plausibly germane to distributional concerns deriving from schools' engagement with law enforcement agencies. It remains important to keep in mind that data limitations preclude analyses of how schools' law enforcement referral practices distribute across various individual-level student sub-groups, particularly the comparatively more vulnerable student sub-groups.⁸⁸

⁸⁷ The data and empirical strategy factors that limit the force of the claims in this study are also similar to limitations that attach to prior studies on this topic. *See, e.g., Nance, Students, supra* note 3, at 971.

⁸⁸ The SSOCS data set does not include individualized information of the actual students whose conduct triggered a law enforcement referral.

Our findings do, however, shed light on how law enforcement agency referrals distribute across schools with various student sub-group compositions. Notably, Table 2 illustrates that—with one exception—a school's percentage of students in poverty, black students, non-white students, and male students do not correspond with any systematic increase in that school's likelihood of reporting student incidents to law enforcement agencies. Similarly, variation in district-level mean per pupil spending does not achieve statistical significance. The one exception is that an increase in a school's percentage of students in poverty corresponds with an increased rate of reports to law enforcement agencies for non-violent student incidents (model 2).

Other robust findings include the influences of a school's disorder rate, student enrollment, and enrollment stability (or student mobility). Another enduring influence is that elementary schools correspond with a reduced rate of school reporting to law enforcement agencies. Finally, in all but one instance the mandatory reporting requirement variables do not emerge as significant influences on schools' reporting behavior. Moreover, in the one instance (model 2) where state reporting requirements for non-violent student conduct achieves statistical significance, it corresponds with a *decrease* in school reports of non-violent student incidents, thereby contributing further confusion about the influence of mandatory reporting requirements.

Table 2: Fractional Response Regression Models of School Report Rates for All and Non-Violent Student Discipline Incidents to Law Enforcement Agencies

	(1) <i>All Incidents</i>		(2) <i>Non-violent Incidents</i>	
Num. of full- and pt.-time SRO/police at school	1.03**	(0.01)	1.02**	(0.01)
Sch. student:teacher ratio	0.99	(0.01)	1.00	(0.00)
Sch. student mobility % (in/out)	1.02*	(0.01)	1.01*	(0.00)
Sch. urban. scale (rural-to-urban)	0.93	(0.07)	0.97	(0.05)
Sch. disorder report rate	1.06**	(0.02)	1.03**	(0.01)
Sch. area crime scale (lo-to-hi)	1.07	(0.12)	1.21*	(0.11)
Sch. student enrollment	1.00**	(0.00)	1.00**	(0.00)
Elementary school (1=yes)	0.29**	(0.08)	0.11**	(0.02)
Vio. incident report req. (1=yes)	0.59	(0.19)	1.04	(0.17)
Non-vio incident report req. (1=yes)	0.85	(0.11)	0.70**	(0.08)
Sch. poverty %	1.00	(0.00)	1.00*	(0.00)
Sch. nonwhite %	1.00	(0.00)	1.00	(0.00)
Sch. black %	1.00	(0.00)	0.99	(0.00)
Sch. male %	0.98	(0.01)	1.00	(0.01)
Sch. dist. mean per pupil spending	1.00	(0.00)	1.00	(0.00)
Constant	0.04	(0.03)	0.00**	(0.00)
Pseudo R ²	0.08		0.09	
<i>N (raw)</i>	1,890		1,890	

NOTES: The dependent variables include the rate of school reports for all student disciplinary incidents to law enforcement agencies and the rate of school reports for only non-violent student incidents to law enforcement agencies. Robust standard errors, clustered on school district, in parentheses. The models were estimated using the “fracreg logit” command in Stata (v.16.1) and used the odds ratio option and SSOCS weighted data. * $p < 0.05$; ** $p < 0.01$.

SOURCES: U.S. Dep’t Educ., Nat’l Ctr. Educ. Stat., 2015–16 School Survey on Crime and Safety (SSOCS); U.S. Dep’t Com., Census Bureau, 2016 Public Elementary-Secondary Education Finance File (2016).

V. CONCLUSION

When we submit two persistent school-to-prison pipeline claims to more recent SSOCS data and more granular empirical testing, what emerges is clear support for one claim and a deficit of direct support for the other.

When it comes to a school's rate of reporting, we find consistent and robust evidence that a school's SRO/police presence exerts upward influence on schools' inclination to report and their rate of reporting. As it relates to traditional distributional concerns, however, while many critics of an increasingly legalized approach to student discipline in schools claim that increases in school reporting, flowing from increases in schools' SRO/police presence, disproportionately involve vulnerable student sub-groups, we do not find persuasive empirical support for such claims. Notably, while our distributional-related findings generally comport with past empirical research using earlier SSOCS data sets, our findings remain somewhat at odds with popular wisdom.⁸⁹

Going forward, future research on school-to-prison pipeline claims would benefit substantially from improved individual-level data, especially as it relates to the students whose conduct triggered a possible school referral to law enforcement. Another current data deficit relates to information on the criminal justice outcomes for those students whose conduct triggered a school referral to law enforcement.

We close by emphasizing the complexity of this issue, the increasingly highly charged area of student discipline, and the growing demands from parents, students, and school administrators for greater school security and order. The nuanced, complex, and varied interactions with a school's SRO/police presence, and whether such a presence's net costs exceed its benefits, is not obvious and likely varies across school districts and, perhaps, individual schools. While such decisions will inevitably involve some degree of political calculation, surrendering such decisions to an unusually politicized environment—and with total disregard for available data—invites self-defeat. Indeed, it is precisely moments like these, where political emotions appear especially raw and enflamed, when a good-faith commitment to following data is at a premium.⁹⁰

⁸⁹ See, e.g., George, *supra* note 6, at 494 (arguing that “children of color and low-income children . . . are disproportionately targeted for referral and arrest by police in schools”).

⁹⁰ For a similar admonition, see, e.g., Michael Heise, *Following Data and a Giant: Remembering Ted Eisenberg*, 100 CORNELL L. REV. 8 (2014).