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"Defund the (School) Police"? Bringing Data to Key School-to-Prison Pipeline Claims

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CRIMINOLOGY

“DEFUND THE (SCHOOL) POLICE”? BRINGING DATA TO KEY SCHOOL-TO- PRISON PIPELINE CLAIMS

MICHAEL HEISE AND JASON P. NANCE*

Nationwide calls to “Defund the Police,” largely attributable to the resurgent Black Lives Matter demonstrations, have motivated derivative calls for public school districts to consider “defunding” (or modifying) school resource officer (“SRO/police”) programs. To be sure, a school’s SRO/police presence—and the size of that presence—may influence the school’s student discipline reporting policies and practices. How schools report student discipline and whether that reporting involves referrals to law enforcement agencies matters, particularly as reports may fuel a growing “school-to-prison pipeline.” The school-to-prison pipeline research literature features two general claims that frame debates about changes in how public schools approach student discipline and the growing number of calls for schools to defund SRO/police programs. One claim is that public schools’ increasingly “legalized” approach toward student discipline increases the likelihood 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. Both claims implicate important legal and policy dimensions, as students’ adverse interactions with law enforcement agencies typically impose negative consequences on students and their futures. We study both claims using 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

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spending, and explore three distinct analytic approaches in an effort to assess the independent influence of a school's SRO/police presence on that school's student discipline reporting behavior. Results from our analyses provide mixed support for the two claims. We find that a school's SRO/police presence corresponds with an increased likelihood that the school will report student incidents to law enforcement agencies. However, we do not find support in the school-level data for the distributional claim.

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INTRODUCTION

While it is not clear at this juncture which lasting legal and policy changes may emerge from recent and ongoing efforts to “Defund the Police,”

attributable to the resurgent Black Lives Matters movement,¹ one specific change is already clear: a growing number of public school districts are now confronting related demands to “defund” school resource officer (“SRO/police”) programs that operate in one-half of the nation’s public elementary and secondary schools.² Despite a sustained growth in SRO/police presence in public elementary and secondary schools over time, much remains unknown about the full suite of costs and benefits for students, schools, and families attributable to these programs.³ What remains all but assumed amid this uncertainty, however, is that a school’s SRO/police presence helps fuel a “school-to-prison pipeline.”⁴

The growing school-to-prison pipeline research literature features two general claims that frame key debates about how public schools approach student discipline. One claim is that schools’ student discipline practices

¹ See, e.g., *#DefundThePolice*, BLACK LIVES MATTER, <https://blacklivesmatter.com/defundthepolice/> [https://perma.cc/39CA-66PV] (last visited Feb. 28, 2021); 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/G L39-JDJ2]; Rachel Hatzipanagos, *What ‘Defund the Police’ Might Look Like*, WASH. POST (June 12, 2020, 11:05 PM), <https://www.washingtonpost.com/nation/2020/06/12/black-lives-matter-defund-police-is-country-ready/> [https://perma.cc/9QZW-9EAE].

² See, e.g., Nader Issa, *Northside College Prep Votes to Remove Its CPD Officer, 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/7NQQ-E9B7]; 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/9TTQ-ZNUK]; 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/2YQT-8EQQ]; Jessica Swarner, *While the Push to Defund Phoenix Police Grows Stronger, Activists Want Officers Out of Schools*, COPPER COURIER (June 16, 2020, 10:44 AM), <https://coppercourier.com/story/students-demand-remove-police-school-campus-phoenix/> [https://perma.cc/A4CX-ZTKV].

³ See Jason P. Nance, *Students, Police, and the School-to-Prison Pipeline*, 93 WASH. U. L. REV. 919, 952 (2016) (observing the difficulty of measuring the effects of laws, practices, and policies, including having law enforcement officers in schools, on students); Mario S. Torres Jr. & Jacqueline A. Stefkovich, *Demographics and Police Involvement: Implications for Student Civil Liberties and Just Leadership*, 45 EDUC. ADMIN. Q. 450, 450, 468 (2009) (examining the relationship between the use of law enforcement officers in schools and criminalizing student offenses and discussing possible explanations for paradoxical findings); Chongmin Na & Denise C. Gottfredson, *Police Officers in Schools: Effects on School Crime and the Processing of Offending Behaviors*, 30 JUST. Q. 619, 645 (2013) (concluding that “more rigorous research” on the effects of police officers in schools is “absolutely essential”).

⁴ See, e.g., Jason P. Nance, *Dismantling the Schools-to-Prison Pipeline: Tools For Change*, 48 ARIZ. L.J. 313, 338 (2016) (describing various causes contributing to the emergence of a school-to-prison pipeline).

have become increasingly legalized.⁵ A steadily increasing SRO/police presence in the nation's public schools both contributes to, and reflects, this trend.⁶ Aside from an array of factors that help account for an increased SRO/police presence in public schools, schools' evolving posture towards student discipline raises important policy concerns. An increasingly legalized school environment may contribute to a net increase in overall school safety and a concurrent decrease in school violence.⁷ Even if such benefits are realized, important potential costs also lurk. Absent a truly randomized and 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 imposed on students, their families, and schools.⁸ One potential cost that has attracted particular scholarly (and public) attention involves students' increased exposure to the criminal justice system.⁹ Given the important stakes involved, concerns about adverse implications for individual students and their futures attributable to an increasingly legalized student discipline model are important and warrant careful attention. This is especially so if schools' motivations for this policy shift include a desire to functionally out-source a greater share of responsibility for student discipline to law enforcement agencies. Making matters worse is that referrals of student incidents to law enforcement agencies—particularly for lower-level non-violent student incidents that were traditionally handled internally within schools—often set into motion a series of legal events that can culminate in ways that

⁵ See Henry A. Giroux, *Racial Injustice and Disposable Youth in the Age of Zero Tolerance*, 16 *QUALITATIVE STUD. IN EDUC.* 553, 557 (2003); Paul J. Hirschfield, *Preparing for Prison?: The Criminalization of School Discipline in the USA*, 12 *THEORETICAL CRIMINOLOGY* 79, 88 (2008).

⁶ See, e.g., Nance, *supra* note 3, at 969–70 (using 2009–2010 School Survey on Crime and Safety (“SSOCS”) data); Torres Jr. & Stefkovich, *supra* note 3, at 461, 463 (analyzing 1999–2000 SSOCS data); Na & Gottfredson, *supra* note 3, at 637 (analyzing various SSOCS data sets).

⁷ See CONG. RSCH. SERV., R45251, *SCHOOL RESOURCE OFFICERS: ISSUES FOR CONGRESS* 6–8 (2018) (reviewing the research on whether school police programs reduce school violence and concluding that “[t]he research that is available draws conflicting conclusions”).

⁸ See *supra* note 2 (examples of recent public attention); *supra* note 3 (examples of recent scholarly work, especially empirical work).

⁹ See, e.g., Michael P. Krezmien, Peter E. Leone, Mark S. Zabloski & Craig S. Wells, *Juvenile Court Referrals and the Public Schools: Nature and Extent of the Practice in Five States*, 26 *J. CONTEMP. CRIM. JUST.* 273, 275 (2010); Nance, *supra* note 3, at 953.

deleteriously impact students' lives.¹⁰ Operationalizing this first general claim—that schools' approach to student discipline is becoming increasingly legalized—contributes to the following hypothesis: SRO/police presence (no matter how small or large) at a school corresponds with an increase in the likelihood that the school will report student discipline incidents to law enforcement agencies. A related, though distinct, form of this hypothesis is that as a school's SRO/police presence increases so too does the likelihood 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.¹¹ 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, boys, students from low-income households, and other vulnerable student sub-groups.

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 subjected to the nation's leading cross-sectional data set on public school crime and safety, the U.S. Department of Education's 2015–2016 School Survey on Crime and Safety ("SSOCS").¹² With respect to the first claim, we find evidence that a school's SRO/police presence corresponds with an increased likelihood that the school will report student incidents to law enforcement agencies.¹³ Our finding on this first claim generally comports with prior studies that analyze earlier versions of the SSOCS data set.¹⁴

¹⁰ See *infra* Part I.A.3.

¹¹ 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) ("[C]hildren 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 policies 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).

¹² Various results discussed in this Article also derive from the 2009–2010 restricted-use version of the SSOCS data series.

¹³ See *infra* Parts III.A, III.B.

¹⁴ See, e.g., Nance, *supra*, note 3, at 969–70; Torres & Stefkovich, *supra* note 3, at 461–63; Na & Gottfredson, *supra* note 3, at 17–22.

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 agencies systematically distribute unevenly across various student sub-groups.¹⁵ 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 agencies. To be clear, however, this hypothesis remains a viable possibility as supportive anecdotal and related evidence exists.¹⁶

Our narrower point is that there is no *direct* empirical support from the SSOCS data set that school referrals to law enforcement raise troubling distributional issues.¹⁷ Moreover, the weight of the *indirect* evidence from school-level data similarly does not imply troubling distributional

¹⁵ See *infra* Parts III.A, III.B.

¹⁶ See, e.g., Nance, *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/7VDR-LKHB>]; 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, Black 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 Black 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).

¹⁷ We note that language in at least one published paper—using earlier versions of the SSOCS data set—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 641 (“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 confusion is that the Na & Gottfredson paper is aware of the unit of analysis limitation in the SSOCS data sets. See *id.* at 641–42 (“However, finer-grained analyses conducted at the individual-level might uncover patterns that our school-level data could not.”).

outcomes.¹⁸ Notably, the paucity of supportive empirical evidence from our study generally contrasts with broader scholarly and public claims about uneven distributions of school discipline across various student sub-groups.¹⁹

Our study of the relation between a school's SRO/police presence and the school's likelihood of referring student disciplinary incidents to law enforcement agencies seeks to contribute to the existing research literature in three specific ways. First, our analyses exploit a more recent (2015-16) version of the SSOCS data set.²⁰ Second, our various models include such complementary data on state-level mandatory reporting requirements as well as district-level per pupil spending information.²¹ These complimentary data provide helpful, and perhaps essential, controls for any modeling efforts.²² Third, we explore three distinct analytic approaches, including logistic regression, fractional response regression, and Heckman selection specifications in an effort to better isolate the possible independent influence

¹⁸ For similar results from earlier SSOCS data sets see, e.g., Nance, *supra* note 3, 972–73 (analyzing 2009–2010 SSOCS data); Na & Gottfredson, *supra* note 3, at 620, 626, 640–41 (analyzing 2003–2004, 2005–2006, and 2007–2008 SSOCS data sets). See generally Michael Heise & Jason P. Nance, *To Report or Not to Report: Data on Schools, Student Discipline, and the "School to Prison Pipeline,"* (Cornell Law Sch. Rsch. Paper No. 20-39, 2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3677247 [https://perma.cc/8MEJ-RSBA], 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.

¹⁹ See, e.g., Erik J. Girvan, *Towards A Problem-Solving Approach to Addressing Racial Disparities in School Discipline Under Anti-Discrimination Law*, 50 MEM. L. REV. (forthcoming 2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3571488 [https://perma.cc/93UB-FKHA] (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 Black 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, 47 (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 SOC. 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 REPORT (June 22, 2016), <https://www.usnews.com/news/articles/2016-06-22/boys-bear-the-brunt-of-school-discipline> [https://perma.cc/KU28-5U4T] (explaining that “the same behavior problems in boys and girls were penalized a lot more in boys than girls”).

²⁰ See *infra* Part II.A.

²¹ See *infra* Part II.D.1.

²² See *infra* Part II.D.1.

of a school's SRO/police presence along with the magnitude of that presence on a school's student discipline reporting behavior.²³

This Article proceeds as follows. Part I briefly summarizes the relevant research literatures. Part II describes our data and empirical strategy. We present our results in Part III and consider their legal and policy implications. We conclude in Part IV and discuss possible next steps for subsequent research.

I. LITERATURE REVIEW

While our Article seeks to both build on and extend the relevant empirical literature, it also inevitably brushes up against two other related research literatures that supply much needed analytic context. One such literature seeks to explain the tightened intersections between schools and the criminal justice system over the past few decades. A second, related research literature endeavors to understand SRO/police officers' increased role in public schools and the consequences of this change.

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

1. Evidence of Tightened Intersections Between Schools and the Criminal Justice System

Over the last few decades intersections between schools and the criminal justice system have tightened significantly.²⁴ This trend can be conceptualized in at least two ways. First, schools have increased their reliance on various criminal justice oriented measures designed to intensify student surveillance and deter violence and student wrongdoing.²⁵ For example, during the 2017–2018 school year, 83.5% of surveyed schools reported that they used one or more security cameras to monitor students.²⁶ This was a sizeable increase from the 1999–2000 school year, in which only

²³ See *infra* Parts II.D, II.E.

²⁴ See generally Jason P. Nance, *The Intersection Between Schools and the Criminal Justice System*, in OXFORD HANDBOOK OF CHILDREN AND THE LAW 665–700 (James G. Dwyer ed., 2020).

²⁵ See Kelly Welch, *School-to-Prison Pipeline*, in ENCYCLOPEDIA OF JUVENILE DELINQUENCY AND JUSTICE 1, 1–2 (Christopher J. Schreck ed., 2017).

²⁶ MELISSA DILIBERTI, MICHAEL JACKSON, SAMUEL CORREA, ZOE PADGETT & RACHEL HANSEN, NAT'L CTR. FOR EDUC. STATISTICS, U.S. DEP'T OF EDUC., CRIME, VIOLENCE, DISCIPLINE, AND SAFETY IN U.S. PUBLIC SCHOOLS: FINDINGS FROM THE SCHOOL SURVEY ON CRIME AND SAFETY: 2017–18, at 13 (2019).

19.4% of schools indicated that they used security cameras.²⁷ Also during the 2017–2018 school year, 95.4% of surveyed schools controlled access to school buildings by locking or monitoring their doors (up from 74.6% in 1999–2000), 50.8% controlled access to school grounds by locking or monitoring gates (up from 33.7% in 1999–2000), and 27.8% conducted one or more “random sweeps for contraband” (up from 11.8% in 1999–2000).²⁸ As discussed in more detail below, schools also have increasingly relied on SRO/police officers in recent years to monitor students and deter violence and criminal activity. Notably, many schools rely on various combinations of these measures that, some argue, contribute to a quasi-prison-like environment.²⁹

Second, as a consequence of these tightened intersections between schools and the criminal justice system, more students are becoming involved with the criminal justice system, either as youth or when they reach adulthood.³⁰ Contributing to this are policies and practices, including state statutes that require schools to notify law enforcement agencies when students engage in certain wrongful acts. For example, states require schools to report students to law enforcement when students commit violent acts such as sexual assault³¹ and attacking another student with a weapon.³² Several states also require schools to report students to law enforcement for various nonviolent crimes, such as possession of illegal drugs,³³ possession of

²⁷ JILL F. DEVOE, KATHARIN PETER, MARGARET NOONAN, THOMAS D. SNYDER & KATRINA BAUM, NAT’L CTR. EDUC. STATISTICS, U.S. DEP’T OF EDUC., INDICATORS OF SCHOOL CRIME AND SAFETY: 2005, at 106 (2005).

²⁸ See *id.*; DILBERTI, JACKSON, CORREA, PADGETT & HANSEN, *supra* note 26, at 13 tbl.7. Interestingly, fewer schools indicated that they performed one or more random metal detector checks on students during the 2017–2018 school year (4.9%) than during the 1999–2000 school year (7.2%). DEVOE, PETER, NOONAN, SNYDER & BAUM, *supra* note 27, at 106; DILBERTI, JACKSON, CORREA, PADGETT & HANSEN, *supra* note 26, at 13 tbl.7. However, more schools required students to pass through metal detectors on a daily basis (0.9% during 1999–2000 vs. 2.2% during 2017–2018). DEVOE, PETER, NOONAN, SNYDER & BAUM, *supra* note 27, at 106; DILBERTI, JACKSON, CORREA, PADGETT & HANSEN, *supra* note 26, at 13.

²⁹ See Jason P. Nance, *Implicit Racial Bias and Students’ Fourth Amendment Rights*, 94 IND. L.J. 47, 48–52 (2019); Paul J. Hirschfield, *Preparing for Prison? The Criminalization of School Discipline in the USA*, 12 THEORETICAL CRIMINOLOGY 79, 79–85 (2008).

³⁰ See Nance, *supra* note 4, at 321–324; Nance, *supra* note 3, at 955–56.

³¹ See, e.g., ARIZ. REV. STAT. ANN. § 15-341(A)(30) (2018); FLA. STAT. § 1012.799 (2018); N.C. GEN. STAT. § 115C-288(g) (2018).

³² See, e.g., ARK. CODE ANN. § 6-17-113(b)(1) (2018); CAL. EDUC. CODE § 48902(a) (West 2018); DEL. CODE ANN. TIT. 14, § 4112(b)(3) (2021).

³³ See, e.g., ALA. CODE § 16-1-24.1 (2018); GA. CODE ANN. § 20-2-1184(a)(7), (b) (2018); KY. REV. STAT. ANN. § 158.154 (West 2018).

alcohol,³⁴ theft,³⁵ and vandalism.³⁶ Other states require schools to report students to law enforcement for the commission of any felony or misdemeanor.³⁷

State statutes that criminalize adolescent misbehavior in schools also increase the likelihood of student engagement with the criminal justice system. For example, many states have passed so-called “disturbing school statutes,”³⁸ which criminalize ordinary student misbehavior such as burping in class³⁹ or texting in class and refusing to turn over a cell phone.⁴⁰ Some estimate that thousands of students are charged each year for violating these statutes.⁴¹ Moreover, school exclusionary disciplinary practices, including suspension and expulsion, often are associated with increased student involvement with the criminal justice system.⁴² 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.⁴³

Empirical studies also document the strong relationship that exists between exclusionary discipline practices in schools and students’

³⁴ See, e.g., IDAHO CODE § 33-210(1) (2018); NEB. REV. STAT. § 79-267 (2018); N.J. STAT. ANN. § 6A:16-6.4(a)(3)(i)–(ii) (West 2018).

³⁵ See, e.g., HAW. REV. STAT. § 302A-1002(1)(b) (2018); N.H. REV. STAT. ANN. § 193-D:4(I) (2018); 24 PA. CONS. STAT. § 13-1303A(b)(4.1) (2018).

³⁶ E.g., KY. REV. STAT. ANN. § 158.154 (2018); 24 PA. CONS. STAT. § 13-1303A (2018)(b)(4.1).

³⁷ E.g., ALASKA STAT. § 14.33.130(b)(2) (2018); KAN. STAT. ANN. § 72-6143(b)(1) (2018); MD. CODE REGS. 13A.08.01.15 (2018).

³⁸ E.g., ARIZ. REV. STAT. ANN. § 13-2911(A)(1)(a)–(b) (2018); CAL. PENAL CODE § 415.5(a)(1) (West 2018); FLA. STAT. § 871.01(1) (2018); WASH. REV. CODE § 28A.635.030 (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, 103–04 (2017).

³⁹ See *A.M. v. Holmes*, 830 F.3d 1123, 1129–30 (10th Cir. 2016).

⁴⁰ See *G.M. ex rel. B.M. v. Casalduc*, 982 F. Supp. 2d 1235, 1240 (D.N.M. 2013).

⁴¹ See 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/PQX3-Y7WK>]; Gupta-Kagan, *supra* note 38, at 103.

⁴² See TONY FABELO, MICHAEL D. THOMPSON, MARTHA PLOTKIN, DOTTIE CARMICHAEL, MINER P. MARCHBANKS III & ERIC A. BOOTH, JUST. CTR. COUNCIL OF STATE GOV’T & PUB. POL’Y RESEARCH INST., *BREAKING SCHOOLS’ RULES: A STATEWIDE STUDY OF HOW STUDENT DISCIPLINE RELATES TO STUDENTS’ SUCCESS AND JUVENILE JUSTICE INVOLVEMENT* 70 (2011), https://knowledgecenter.csg.org/kc/system/files/Breaking_School_Rules.pdf [<https://perma.cc/MSV8-ZEFE>].

⁴³ See Am. Acad. of Pediatrics, *Policy Statement: Out-of-School Suspension and Expulsion*, 112 PEDIATRICS 1206, 1207 (2003).

involvement with the criminal justice system as adults.⁴⁴ Students suspended in school were more likely to be arrested at some future point than those who were not suspended, even after controlling for other variables that might explain increased odds of arrest.⁴⁵ School exclusionary discipline practices also correspond with academic underachievement and failing to graduate from high school;⁴⁶ and failing to graduate from high school is associated with involvement in the criminal justice system, either as a youth or as an adult.⁴⁷

One extreme category of exclusionary discipline that has 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 campus as a condition for receiving federal education funds.⁴⁸ The Act validated the practice of zero tolerance for certain student infractions and precipitated a new disciplinary mindset in many school districts across the

⁴⁴ See 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*, in CLOSING THE SCHOOL DISCIPLINE GAP: EQUITABLE REMEDIES FOR EXCESSIVE EXCLUSION 31, 36–40 (Daniel J. Losen ed., 2015).

⁴⁵ Mowen & Brent, *supra* note 44, at 642–43; Wolf & Kupchik, *supra* note 44, at 421–22.

⁴⁶ See, e.g., FABELO, THOMPSON, PLOTKIN, CARMICHAEL, MARCHBANKS & BOOTH, *supra* note 42, 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, Disproportionalities, and Consequences of Being Suspended in the Ninth Grade*, 5 J. APPLIED RSCH. ON CHILDREN 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) (“[S]tudents who experience out-of-school suspension and expulsion are as much as 10 times more likely to ultimately drop out of high school than are those who do not.”).

⁴⁷ See NAT’L CTR. JUV. JUST., JUVENILE OFFENDERS AND VICTIMS: 2014 NATIONAL REPORT 15 (Melissa Sickmund & Charles Puzzanchera eds., 2014), <https://www.ojjdp.gov/ojstatbb/nr2014> [<https://perma.cc/SFJ2-NU5B>] (explaining that high school dropouts are more likely to be institutionalized than those who are more educated); CLIVE R. BELFIELD, HENRY M. LEVIN & RACHEL ROSEN, THE ECONOMIC VALUE OF OPPORTUNITY YOUTH 20 (2012), https://aspencommunitysolutions.org/wp-content/uploads/2018/07/Economic_Value_of_Opportunity_Youth_Report.pdf [<https://perma.cc/U5QK-ACCN>] (observing that “[e]ducation levels are strongly correlated with criminal activity”).

⁴⁸ 20 U.S.C. § 7961.

nation.⁴⁹ Zero tolerance policies require school authorities to administer specific disciplinary consequences when students engage in certain behavior, regardless of the surrounding circumstances, the severity, or the results of the behavior.⁵⁰ These policies now extend beyond bringing a gun to campus and apply to infractions like possession of illegal drugs, tobacco, alcohol, sharp objects, or over-the-counter medication, dress code violations, tardiness, truancy, and fighting.⁵¹ 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 pretending to shoot a gun with one's hands.⁵² Scholars and youth advocates have criticized zero tolerance policies as ineffective, counterproductive, and unnecessarily putting students at risk of increased involvement with the criminal justice system.⁵³

Significantly, many scholars and commentators also have pointed out that the tightened intersections between schools and the criminal justice system impact various student groups differently. For example, studies imply that schools serving higher concentrations of students of color have comparatively greater rates of employing various combinations of surveillance measures.⁵⁴ These findings persist even after controlling for

⁴⁹ 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 (2012) (“Passage of the Gun-Free Schools Act signaled an important validation of zero tolerance school discipline practices by the federal government . . .”).

⁵⁰ 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).

⁵¹ See 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); DEREK W. BLACK, *ENDING ZERO TOLERANCE: THE CRISIS OF ABSOLUTE SCHOOL DISCIPLINE* 3 (2016).

⁵² See BLACK, *supra* note 51, at 2–4.

⁵³ See Am. Psych. Ass’n Zero Tolerance Task Force, *supra* note 50, at 857; Derek W. Black, *The Constitutional Limit of Zero Tolerance in Schools*, 99 MINN. L. REV. 823, 837–41 (2015); ADVANCEMENT PROJECT, HARVARD 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/cr-p-opportunities-suspended-zero-tolerance-2000.pdf> [<https://perma.cc/BJ5F-J5RY>].

⁵⁴ See Jason P. Nance, *Student Surveillance, Racial Inequalities, and Implicit Racial Bias*, 66 EMORY L.J. 765, 810–11 (2017) [hereinafter Nance, *Student Surveillance*] (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) [hereinafter Nance, *Students, Security, and Race*] (finding that “a school’s percentage of minority students is a strong predictor of whether a

other school characteristics and student demographic information such as student poverty, the 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 surrounding neighborhoods.⁵⁵

Likewise, scholars have written extensively about racial disparities in suspensions and expulsions.⁵⁶ Similar to the use of security measures, many scholars find that racial disparities persist after controlling for factors such as student misbehavior, poverty, academic achievement, neighborhood context, and district and school characteristics.⁵⁷ However, other scholars have observed that these uneven distributions of school discipline across various student sub-groups are complex. For example, empirical studies show that

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) [hereinafter Finn & Servoss, *Security Measures*] ("[T]he 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 & POLICY IN SCHS.* 61, 79–80 (2014) [hereinafter Servoss & Finn, *School Security*] ("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 T. Steinka-Fry, Benjamin W. Fisher & Emily Tanner-Smith, *Visible School Security Measures Across Diverse Middle and High School Settings: Typologies and Predictors*, 11 *J. 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).

⁵⁵ Nance, *Student Surveillance*, *supra* note 54, at 805–11; Nance, *Students, Security, and Race*, *supra* note 54, at 32–41; Finn & Servoss, *Security Measures*, *supra* note 54, at 49; Servoss & Finn, *School Security*, *supra* note 54, at 431.

⁵⁶ *See, e.g.*, U.S. DEP'T OF EDUC. OFF. FOR CIVIL RIGHTS, *CIVIL RIGHTS DATA COLLECTION DATA SNAPSHOT: SCHOOL DISCIPLINE* 7 (2014); Russell J. Skiba, Mariella I Arredondo & Natasha T. Williams, *More Than a Metaphor: The Contribution of Exclusionary Discipline to a School-to-Prison Pipeline*, 47 *EQUITY & EXCELLENCE EDUC.* 546, 550–51 (2014); DANIEL J. LOSEN & JONATHAN GILLESPIE, *OPPORTUNITIES SUSPENDED: THE DISPARATE IMPACT OF DISCIPLINARY EXCLUSION FROM SCHOOL* 12, 18–19 (2012); Girvan, *supra* note 19, at 5–7.

⁵⁷ *See* Yolanda Anyon, Jeffrey M. Jenson, Inna Altschul, Jordan Farrar, Jeanette McQueen, Eldridge Greer, Barbara Downing & John Simmons, *The Persistent Effect of Race and the Promise of Alternatives to Suspension in School Discipline Outcomes*, 44 *CHILD. & YOUTH SERV. REV.* 379, 380 (2014); Russell J. Skiba, Robert H. Horner, Choong-Geun Chung, M. Karega Rausch, Seth L. May & Tary Tobin, *Race Is Not Neutral: A National Investigation of African American and Latino Disproportionality in School Discipline*, 40 *SCH. PSYCH.* 85, 95–101 (2011); Russell J. Skiba, Choong-Geun Chung, Megan Trachok, Timberly Baker, Adam Sheya & Robin Hughes, *Where Should We Intervene? Contributions of Behavior, Student, and School Characteristics in Out-of-School Suspension*, in *CLOSING THE SCHOOL DISCIPLINE GAP: EQUITABLE REMEDIES FOR EXCESSIVE DISCIPLINE* 132, 132–34 (Daniel J. Losen ed., 2015).

Black students are not subject to exclusionary discipline at higher rates than other students for more serious and objectively defined offenses, especially when discipline is mandated for engaging in such offenses.⁵⁸ But Black students *are* suspended and expelled at higher rates for less serious offenses and for offenses where discipline is discretionary.⁵⁹

Much less has been written about racial disparities in referrals to law enforcement or school-based arrests. Data from the U.S. Department of Education Office for Civil Rights' Civil Rights Data Collection report racial disproportionalities at a national level,⁶⁰ and others have used these data to document disparities at a state level,⁶¹ but comparatively less empirical work in this area has been conducted at the school level.

One exception includes empirical work from Matthew Theriot, who “compared the number of arrests in three consecutive school years at thirteen schools with an SRO and fifteen schools without an SRO in one school district.”⁶² Theriot found that economic disadvantage in schools was positively related to the number of school-based arrests.⁶³ He also found that

⁵⁸ See FABELO, THOMPSON, PLOTKIN, CARMICHAEL, MARCHBANKS & BOOTH, *supra* note 42, at 45; Erik J. Girvan, Cody Gion, Kent McIntosh & Keith Smolkowski, *The Relative Contribution of Subjective Office Referrals to Racial Disproportionality in School Discipline*, 32 SCH. PSYCH. Q. 392, 400–402 (2017); *see also* Girvan, *supra* note 19, at 11–12 (discussing studies showing that Black students tend to be disciplined more often when discipline is discretionary for more minor offenses rather than when discipline is mandatory for more serious offenses).

⁵⁹ See FABELO, THOMPSON, PLOTKIN, CARMICHAEL, MARCHBANKS & BOOTH, *supra* note 42, at 45; Girvan, Gion, McIntosh & Smolkowski, *supra* note 58, at 397; Girvan, *supra* note 19, at 11–12; Keith Smolkowski, Erik J. Girvan, Kent McIntosh, Rhonda N. T. Nese & Robert H. Horner, *Vulnerable Decision Points for Disproportionate Office Discipline Referrals: Comparisons of Discipline for African American and White Elementary School Students*, 41 BEHAV. DISORDERS 178, 184 (2016).

⁶⁰ See U.S. DEP'T OF EDUC. OFF. FOR CIVIL RIGHTS, DATA COLLECTION DATA SNAPSHOT: SCHOOL DISCIPLINE 1, 6 (2014) (“Black students represent 16% of student enrollment, 27% of students referred to law enforcement, and 31% of students subjected to a school-related arrest.”); *see also* Emily M. Homer & Benjamin W. Fisher, *Police in Schools and Student Arrest Rates Across the United States: Examining Differences by Race, Ethnicity, and Gender*, 19 J. SCH. VIOLENCE 192, 198–199 (2020) (examining the 2013–2014 Civil Rights Data Collection and finding that “Black students’ arrest rates were higher . . . by 1.22 students per 1,000,” and “Hispanic students’ arrest rates were higher by 0.55 students per 1,000” in schools with police).

⁶¹ See, e.g., Evie Blad & Alex Harwin, *Black Students More Likely to Be Arrested at School*, EDUC. WEEK (Jan. 24, 2017), <https://www.edweek.org/ew/articles/2017/01/25/black-students-more-likely-to-be-arrested.html?r=1131109146> [<https://perma.cc/MAK2-66LE>] (stating that “[i]n 43 states and the District of Columbia, black students are arrested at school at disproportionately high levels”).

⁶² See Theriot, *supra* note 11, at 282.

⁶³ *Id.* at 284.

“the number of arrests [did] not change as poverty levels change[d] at schools with an SRO.”⁶⁴

Another notable exception involves David Ramey’s analysis of data from the 2009–2010 U.S. Department of Education Civil Rights Data Collection and the 2009–2010 National Center for Education Statistics Common Core Data. Ramey examined, among other factors, the relationship between school-level and district-level racial/ethnic and poverty compositions and rates of referrals to law enforcement and school-based arrests.⁶⁵ While Ramey’s study controls for demographics and school characteristics, it does not account for either state mandatory reporting requirements or examine the effect of schools having regular contact with an SRO or other law enforcement officer.⁶⁶ Ramey found that schools serving higher concentrations of Black students were associated with higher rates of student arrests and referrals to law enforcement.⁶⁷ He also found that schools and districts serving higher concentrations of impoverished students had higher rates of student criminalization.⁶⁸

Finally, F. Chris Curran and his colleagues examined the effects of SRO programs on students in two mid-sized suburban school districts in the South, including the frequency of student arrests.⁶⁹ The school districts contained approximately fifty schools, all of which had an SRO.⁷⁰ While the two districts generally served a student population that was mostly white and affluent, the schools’ student characteristics varied substantially with respect to race and ethnicity and socioeconomic status.⁷¹ Notably, these researchers “tended to see little variation in the practices of SROs across these schools.”⁷² Specifically, they observed that “SROs tended to view the risk of threats and their approaches to school discipline similarly, regardless of the racial composition of the school.”⁷³

⁶⁴ *Id.*

⁶⁵ See David M. Ramey, *The Social Structure of Criminalized and Medicalized School Discipline*, 88 Soc. EDUC. 181, 187 (2015).

⁶⁶ See *id.* at 192.

⁶⁷ *Id.* at 189, 192.

⁶⁸ *Id.* at 192.

⁶⁹ F. CHRIS CURRAN, BENJAMIN W. FISHER, SAMANTHA L. VIANO & AARON KUPCHIK, UNDERSTANDING SCHOOL SAFETY AND THE USE OF SCHOOL RESOURCE OFFICERS IN UNDERSTUDIED SETTINGS 7, 32 (2020).

⁷⁰ *Id.* at 7.

⁷¹ *Id.*

⁷² *Id.* at 33.

⁷³ *Id.*

2. *Why Intersections Between Schools and the Criminal Justice System Have Tightened*

Scholars have proposed several interrelated theories for why schools have increased their reliance on criminal justice-oriented security measures and punitive policies over the past decades. Some point to a backdrop of a “tough on crime” mindset that was present throughout various regions of the country and manifested by laws such as truth-in-sentencing laws,⁷⁴ minimum prison sentence laws,⁷⁵ and habitual offender laws.⁷⁶ Consistent with this backdrop, when juvenile violent crime rates escalated from the mid-1980s to 1994, many legislative and executive bodies focused on punishing criminal behavior rather than on rehabilitating youth offenders.⁷⁷ Scholars argue that a parallel approach was adopted by schools to address student discipline problems, where some policymakers and school authorities focused on punishment, rather than rehabilitation, by suspending, expelling, or referring students to law enforcement when students violated school rules.⁷⁸

Scholars and commentators also observed that several highly-publicized acts of school violence, such as those that occurred at Columbine High School and Sandy Hook Elementary School, motivated many school authorities to intensify student surveillance and adopt punitive disciplinary

⁷⁴ The majority of states in the 1980s and 1990s enacted statutes that mandated persons convicted of crimes to serve at least 85% of their prison sentences. See PAULA M. DITTON & DORIS JAMES WILSON, U.S. DEP’T OF JUST., BUREAU OF JUSTICE STATISTICS SPECIAL REPORT: TRUTH IN SENTENCING IN STATE PRISONS 3 (1999).

⁷⁵ See, e.g., Sentencing Reform Act of 1984, Pub. L. No. 98-473, 98 Stat. 1987 (codified as amended in various sections of 18 & 28 U.S.C.).

⁷⁶ See, e.g., CAL. PENAL CODE § 667 (2012).

⁷⁷ See BARRY C. FELD, *BAD KIDS: RACE AND THE TRANSFORMATION OF THE JUVENILE COURT* 189–90 (1999); PATRICIA TORBET, RICHARD GABLE, HUNTER HURST IV, IMOGENE MONTGOMERY, LINDA SZYMANSKI & DOUGLAS THOMAS, NAT’L CTR. FOR JUV. JUST., *STATE RESPONSES TO SERIOUS AND VIOLENT JUVENILE CRIME*, at xi (1996) (documenting states’ legislative and executive action shift in approach to address juvenile crime); Elizabeth S. Scott, “*Children Are Different*”: *Constitutional Values and Justice Policy*, 11 OHIO ST. J. CRIM. L. 71, 94 (2013) (“The hostility and fear that characterized attitudes toward young offenders in the 1990s resulted in policies and decisions driven primarily by immediate public safety concerns and the goal of punishing young criminals.”). For example, several states passed laws to facilitate the transfer of juveniles to criminal court to be tried as adults. See Donna M. Bishop & Barry C. Feld, *Juvenile Justice in the Get Tough Era*, in *ENCYCLOPEDIA OF CRIMINOLOGY AND CRIMINAL JUSTICE* 2766, 2768 (G. Bruinsma & D. Weisburd eds., 2014).

⁷⁸ See KATHLEEN NOLAN, *POLICE IN THE HALLWAYS: DISCIPLINE IN AN URBAN HIGH SCHOOL* 164 (2011); Henry Armand Giroux, *Racial Injustice and Disposable Youth in the Age of Zero Tolerance*, 16 QUALITATIVE STUD. EDUC. 553, 561 (2003) (observing that zero tolerance policies were modeled on minimum prison sentences laws and habitual offender laws); Hirschfield, *supra* note 29, at 90; Barbara Fedders, *The Anti-Pipeline Collaborative*, 51 WAKE FOREST L. REV. 565, 567–68 (2016).

policies.⁷⁹ Such events, which commanded national attention for sustained periods of time, instilled fear and concern in many parents, students, and community members.⁸⁰ School authorities and policymakers sometimes experienced pressure to demonstrate that they were creating safe environments for children.⁸¹ Security measures and “get tough” policies and practices were concrete actions that school authorities and policymakers could take to appease their constituencies.

Scholars further theorize that some schools increased their reliance on intense surveillance measures and punitive discipline policies because they lack resources to adequately address student misbehavior and create orderly learning environments.⁸² Some students have severe learning disabilities, live in families that lack behavioral structure, have acute behavioral disorders, suffer from trauma, anxiety, malnutrition, lack adequate health care, live in neglectful, abusive home environments, and move frequently or are homeless.⁸³ Students often misbehave or violate school rules when their needs are not met, they are harassed by their peers, or when they are frustrated or embarrassed because they cannot meet grade-level

⁷⁹ See, e.g., Elizabeth S. Scott, *Miller v. Alabama and the (Past and) Future of Juvenile Crime Regulation*, 31 LAW & INEQ. 535, 541 (2013) (explaining that after the Columbine shootings “legislatures across the country rushed to pass strict zero tolerance laws, making it a crime to threaten violence in schools”); Nance, *Students, Security, and Race*, *supra* note 54, at 3.

⁸⁰ See Lynh Bui, *Montgomery County Parents Ask for More School Security, Teacher Training During Budget Hearing*, WASH. POST (Jan. 11, 2013, 3:15 PM), http://www.washingtonpost.com/blogs/maryland-schools-insider/post/montgomery-county-parents-ask-for-more-schoolsecurity-teacher-training-during-budget-hearing/2013/01/11/e8d3dcf4-5aab-11e2-9fa9-5fbd9530eb9_blog.html [<https://perma.cc/TBE4-2P2E>]; Motoko Rich, *School Officials Look Again at Security Measures Once Dismissed*, N.Y. TIMES (Dec. 18, 2012), <https://www.nytimes.com/2012/12/19/education/after-newtown-shootings-schools-consider-armed-security-officers.html> [<https://perma.cc/3KVN-9PW9>].

⁸¹ See Randall R. Beger, *The “Worst of Both Worlds”: School Security and the Disappearing Fourth Amendment Rights of Students*, 28 CRIM. JUST. REV. 336, 336 (2003); Torin Monahan & Rodolfo D. Torres, *Introduction*, in *SCHOOLS UNDER SURVEILLANCE: CULTURES OF CONTROL IN PUBLIC EDUCATION* 1, 2–3 (Torin Monahan & Rodolfo D. Torres eds., 2009) (“[T]he threat of ‘another Columbine’ (or Virginia Tech, and so on) haunts the social imagery, leading parents, policy makers, and others to the sober conclusion that any security measure is worth whatever trade-offs are involved in order to ensure safety.”).

⁸² See Pedro A. Noguera, *Schools, Prisons, and Social Implications of Punishment: Rethinking Disciplinary Practices*, 42 THEORY INTO PRACTICE 341, 342 (2003); Hirschfield, *supra* note 29, at 92.

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

expectations.⁸⁴ Instead of addressing various unmet needs, some schools resort to referring students to law enforcement or relying on other exclusionary disciplinary measures designed to push misbehaving students out of school to help maintain order and control.⁸⁵

Relatedly, scholars also contend that increased pressure from external constituencies to demonstrate student achievement may be another driving force behind the adoption of punitive disciplinary measures and practices.⁸⁶ Over the last decades, federal and state education accountability laws, such as the now defunct No Child Left Behind Act, required schools to regularly test students to measure whether students met certain academic standards.⁸⁷ Schools failing to meet these imposed standards might be subject to various sanctions or receive a negative label, putting school authorities' jobs in jeopardy.⁸⁸ Pushing disruptive or low-performing students out of school could be a method to conserve limited resources to help schools meet statutory expectations and avoid sanctions.

3. *Consequences of These Tightened Intersections*

As previously explained, much of the public and scholarly attention focuses on individual and social costs flowing from more students becoming involved in the criminal justice system. Because such involvement can create adverse implications for students, their futures, their families, and society, concerns about these tightened intersections warrant careful attention.

One end result for some youth who become involved in the criminal justice system is incarceration. Obviously, the impacts of incarceration on youth can be—and invariably are—severe. Incarceration for youth corresponds with (indeed, drives) limited future educational, employment, and housing opportunities,⁸⁹ reduced odds of graduating from high school,⁹⁰

⁸⁴ See Noguera, *supra* note 82, at 342.

⁸⁵ See Hirschfield, *supra* note 29, at 92; Noguera, *supra* note 82, at 342, 345.

⁸⁶ See FED. ADVISORY COMM. ON JUVENILE JUST., ANNUAL REPORT 2010, at 10 (2010); Linda Darling-Hammond, *Race, Inequality and Educational Accountability: The Irony of 'No Child Left Behind,'* 10 RACE, ETHNICITY, & EDUC. 245, 252–55 (2007); James E. Ryan, *The Perverse Incentives of the No Child Left Behind Act*, 79 N.Y.U. L. REV. 932, 969–70 (2004).

⁸⁷ See Nance, *Student Surveillance*, *supra* note 54, at 781–82.

⁸⁸ *Id.*

⁸⁹ See RIYA SAHA SHAH & JEAN STROUT, JUV. L. CTR., FUTURE INTERRUPTED: THE COLLATERAL DAMAGE CAUSED BY PROLIFERATION OF JUVENILE RECORDS 10–11 (2016); BARRY HOLMAN & JASON ZIEDENBERG, JUST. POL'Y INST., THE DANGERS OF DETENTION: THE IMPACT OF INCARCERATING YOUTH IN DETENTION AND OTHER SECURE FACILITIES 9 (2006).

⁹⁰ See Anna Aizer & Joseph J. Doyle, Jr., *Juvenile Incarceration, Human Capital, and Future Crime: Evidence from Randomly Assigned Judges*, 130 Q. J. ECON. 759, 799 (2015).

mental health concerns,⁹¹ a reinforcement of violent attitudes and behaviors,⁹² and an increased likelihood of future involvement in the criminal justice system.⁹³ In addition, even student arrests that do not lead to incarceration correspond with undesirable conditions. An arrest can lead to emotional trauma, embarrassment, stigma, expulsion from school, and a reduced probability of graduating from high school.⁹⁴

B. A GROWING SRO/POLICE PRESENCE IN PUBLIC SCHOOLS

1. Evidence of and Explanations for a Growing SRO/Police Presence in Public Schools

A key component of the tightened intersection between schools and the criminal justice system involves a growing SRO/police presence in public schools. Many schools rely on SRO/police officers to assist with student surveillance, deter school violence and student wrongdoing, and help create an orderly school environment.⁹⁵

⁹¹ See Christopher B. Forrest, Ellen Tambor, Anne W. Riley, Margaret E. Ensminger & Barbara Starfield, *The Health Profile of Incarcerated Male Youths*, 105 PEDIATRICS 286, 288–89 (2000); Javad H. Kashani, George W. Manning, Donald H. McKnew, Leon Cytryn, John F. Simonds & Phil C. Wooderson, *Depression Among Incarcerated Delinquents*, 3 PSYCHIATRY RSCH. 185, 190–91 (1980).

⁹² See Anne M. Hobbs, Timbre Wulf-Ludden & Jenna Strawhun, *Assessing Youth Early in the Juvenile Justice System*, 3 J. JUV. JUST. 80, 81 (2013); Mark J. Van Ryzin & Thomas J. Dishion, *From Antisocial Behavior to Violence: A Model for the Amplifying Role of Coercive Joining in Adolescent Friendships*, 54 J. CHILD PSYCH. & PSYCHIATRY 661, 661 (2013) (explaining that coercive friendships during adolescent years predict violent behavior in adulthood).

⁹³ See ANTHONY PETROSINO, CAROLYN TURPIN-PETROSINO & SARAH GUCKENBURG, FORMAL SYSTEM PROCESSING OF JUVENILES: EFFECTS ON DELINQUENCY 25–36 (2010); Brent B. Benda & Connie L. Tollett, *A Study of Recidivism of Serious and Persistent Offenders Among Adolescents*, 27 J. OF CRIM. JUST. 111, 113 (1999).

⁹⁴ See ADVANCEMENT PROJECT, EDUCATION ON LOCKDOWN: THE SCHOOLHOUSE TO JAILHOUSE TRACK 12 (2005); Theriot, *supra* note 11, at 281; Gary Sweeten, *Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement*, 23 JUST. Q. 462, 471–77 tbl.5 (2006); Paul Hirschfield, *Another Way Out: The Impact of Juvenile Arrests on High School Dropout*, 82 SOC. EDUC. 368, 373 (2009).

⁹⁵ 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 KIERNAN COON, CTR. FOR CRIMINAL JUSTICE RESEARCH, UNIV. OF CINCINNATI, THE ROLE OF LAW ENFORCEMENT IN PUBLIC SCHOOL SAFETY: A NATIONAL SURVEY 85 (2005), <https://www.ojp.gov/pdffiles1/nij/grants/211676.pdf>. 42% 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”

The National Association of School Resource Officers (NASRO) believes that “[s]chool-based policing is the fastest-growing area of law enforcement.”⁹⁶ 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 100,⁹⁷ by 2007 the number approached almost 20,000.⁹⁸

Complementing the rapid 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, 2007–2008 SSOCS data (weighted) reveal an SRO/police official was present at least one day a week in 21.1% of the sampled schools.⁹⁹ The 2015–2016 SSOCS data set reveals that in less than one decade the percentage (50%) more than doubled.¹⁰⁰ While both the absolute growth in SRO/police officers in schools as well as the relative share of schools that use them 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 reliance on criminal justice-oriented measures and punitive discipline policies for the reasons discussed above.¹⁰¹ Many point to rising youth crime rates from the mid-1980s to 1994 and highly-publicized incidents of school violence as major driving forces for the increase.¹⁰²

reasons. *Id.* at 85; see also CURRAN, FISHER, VIANO & KUPCHIK, *supra* note 69, at 18–22 (describing activities of SROs in schools).

⁹⁶ About NASRO, NAT’L ASS’N OF SCH. RESOURCE OFFICERS, <https://www.nasro.org/main/about-nasro/> [<https://perma.cc/4X5H-RV52>] (last visited Mar. 2, 2021).

⁹⁷ Nance, *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, 457 (2007); Paul J. Hirschfield & Katarzyna Celinska, *Beyond Fear: Sociological Perspectives on the Criminalization of School Discipline*, 5 SOC. COMPASS 1, 1 (2011).

⁹⁸ See NATHAN JAMES & GAIL MCCALLION, CONG. RSCH. SERV., R43126, SCHOOL RESOURCE OFFICERS: LAW ENFORCEMENT OFFICERS IN SCHOOLS 20 (2013), <https://fas.org/sgp/crs/misc/R43126.pdf> [<http://perma.cc/5BJX-M43Z>].

⁹⁹ Na & Gottfredson, *supra* note 3, at 632–33.

¹⁰⁰ See *infra* Part II.D.2, tbl.1 (displaying results from weighted sample).

¹⁰¹ See *supra* Part I.A.2.

¹⁰² See, e.g., CURRAN, FISHER, VIANO & KUPCHIK, *supra* note 69, 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, Emmeline Taylor & Aaron Kupchik eds., 2018); Josh Gupta-Kagan, *Reevaluating School Searches Following School-to-Prison Pipeline Reforms*, 87 FORDHAM L. REV. 2013, 2015 (2019); Theriot, *supra* note 11, at 280. Following the school shooting in Parkland, Florida in 2018, the Florida State Legislature mandated that “each district school board and school district

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 1999.¹⁰³ According to the most recent publicly-available financial data, the COPS program has awarded around \$914 million in grants to help hire more than 7,967 SROs.¹⁰⁴ 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 for an array of programs, including those that help fund SROs in schools.¹⁰⁵ Several states also provide funding to support bringing SROs into schools.¹⁰⁶

Interestingly, lawmakers, police departments, and school officials continue to place more SRO/police into schools even though strikingly little is known about SRO/police programs' effectiveness in terms of increasing school safety and decreasing school violence and crime.¹⁰⁷ To be sure, it remains difficult to over-emphasize the benefits associated with increases in school safety and decreases in school violence and crime. Whether bolstering a school's SRO/police presence in fact contributes to realizing such goals

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 (2020).

¹⁰³ Na & Gottfredson, *supra* note 3, at 620–21.

¹⁰⁴ MARIEKE BROCK, NORMA KRIGER & RAMÓN MIRÓ, LIBR. CONGR., SCHOOL SAFETY POLICIES AND PROGRAMS ADMINISTERED BY THE U.S. FEDERAL GOVERNMENT: 1990–2016 at 78, 79, 81 (2017), <https://www.ncjrs.gov/pdffiles1/nij/grants/251517.pdf> [<https://perma.cc/QU6S-Y66W>].

¹⁰⁵ See Press Release, U.S. Dep't of Educ., U.S. Department of Education Awards More Than \$32.8 Million to Promote Safe Schools, Healthy Students (July 10, 2009), <https://www.ed.gov/news/press-releases/us-department-education-awards-more-328-million-promote-safe-schools-healthy-students> [<https://perma.cc/C3G5-7Y6G>]; KELLIE ANDERSON, LAURA TOWVIM, JANE REPETTI, NIKITA CARNEY, JOHN ROSIAK, BENJAMIN THOMAS & CHRISTINE BLABER, SAFE SCHOOLS, HEALTHY STUDENTS, NAT'L CTR. MENTAL HEALTH PROM. & YOUTH VIOLENCE PREV., EDUC. DEV. CTR., LAW ENFORCEMENT: SNAPSHOTS FROM THE SAFE SCHOOLS/HEALTHY STUDENTS INITIATIVE 11 (2013) (discussing Safe Schools/Healthy Students funding to hire SROs in schools).

¹⁰⁶ 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. CONS. STAT. § 13-1302-A (2020) (authorizing grants to cover costs associated with compensating school resource officers).

¹⁰⁷ See JAMES & MCCALLION, *supra* note 98, at 9; see also Na & Gottfredson, *supra* note 3, at 624–25 (criticizing most evaluations of SRO programs as limited to descriptive statistics and various self-reported perceptions of school and student safety).

remains uncertain, but evidence of possible negative costs attributable to a school's SRO/police presence is comparatively less uncertain and, in any event, warrants attention.

The precise roles, responsibilities, and day-to-day work of SRO/police officers vary considerably across the nation and from school to school. As Ben Brown observes, the American law enforcement apparatus itself is “decentralized and fragmented,” being composed of various federal, state, and local agencies that report to various constituencies and have differing responsibilities, authorities, and funding sources.¹⁰⁸ A relatively small group of SRO/police is embedded within this fragmented apparatus and works for a variety of agencies that include county sheriff departments, municipal police departments, and school district police departments.¹⁰⁹ Scholars who have studied SRO/police officer programs have observed a great variety and breadth of services that SRO/police provide to schools throughout the country.¹¹⁰

Nevertheless, one common and unsurprising category of SRO/police activities that scholars and commentators consistently identify is “law enforcement-related activities,” including investigating complaints, minimizing disruptions, patrolling school grounds, and maintaining order.¹¹¹ SRO/police appear to have the legal authority to intervene in nearly all student disciplinary matters, as states commonly criminalize actions such as assault, disorderly conduct, larceny, and disturbing the peace.¹¹² They also may enforce the so-called “disturbing school statutes” discussed above.¹¹³

¹⁰⁸ See Brown, *supra* note 102, at 328–29.

¹⁰⁹ *Id.* at 329.

¹¹⁰ See CURRAN, FISHER, VIANO & KUPCHIK, *supra* note 69, at 18–22; PETER FINN, MICHAEL SHIVELY, JACK McDEVITT, WILLIAM LASSITER & TOM RICH, COMPARISON OF PROGRAM ACTIVITIES AND LESSONS LEARNED AMONG 19 SCHOOL RESOURCE OFFICER (SRO) PROGRAMS 14–18 (2005); AARON KUPCHIK, HOMEROOM SECURITY: SCHOOL DISCIPLINE IN AN AGE OF FEAR 82–95 (2010); TRAVIS III & COON, *supra* note 95, at 37–39; see also Brown, *supra* note 102, at 329–330.

¹¹¹ See JAMES & MCCALLION, *supra* note 98, at 2; KUPCHIK, *supra* note 110, at 83–89; Gupta-Kagan, *supra* note 102, at 2039; Theriot, *supra* note 11, at 281. According to the COPS program, one of the primary duties of SROs is to “address crime and disorder problems, gangs, and drug activities affecting or occurring in or around an elementary or secondary school.” 42 U.S.C. § 3796dd-8(4)(A).

¹¹² See, e.g., CAL. PENAL CODE § 241 (West 2018) (criminalizing assault); FLA. STAT. § 877.03 (2018) (criminalizing acts that breach the peace and disorderly conduct); N.Y. PENAL LAW § 155.05 (McKinney 2018) (criminalizing larceny); VA. CODE ANN. § 18.2-415 (2018) (criminalizing disorderly conduct).

¹¹³ 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 § 28A.635.030 (2018); see also Gupta-Kagan, *supra* note 38, at 103; Kerrin C. Wolf, *Arrest Decision Making by School Resource Officers*, 12 YOUTH VIOLENCE & JUV. JUST. 137, 147 (2014).

Consequently, many scholars worry about the blurred lines that have emerged between “administering law enforcement” and “disciplining adolescent misbehavior.”¹¹⁴ One scholar observes that school resource officers have become the “new authoritative agents” of school discipline, as “the introduction of law enforcement officers into schools has transformed student misconduct into a matter to be dealt with by the criminal justice system.”¹¹⁵

Scholars, particularly legal scholars, also have expressed concern that a sustained law enforcement presence in schools imposes additional strains on students’ already limited constitutional rights.¹¹⁶ For example, the U.S. Supreme Court has held that school authorities do not need to obtain a warrant or show probable cause to lawfully search a student.¹¹⁷ The majority of courts also have applied this lower standard when evaluating the legality of student searches conducted by SRO/police officers, even when evidence obtained from SRO searches subsequently is used for prosecution purposes.¹¹⁸ Courts also have held that school officials do not need to provide *Miranda* warnings before interrogating a student about potential wrongdoing,¹¹⁹ even when they subsequently provide the evidence they obtain to law enforcement,¹²⁰ and even when a law enforcement officer is present during the interrogation.¹²¹

¹¹⁴ See, e.g., Gupta-Kagan, *supra* note 38, at 102–07; Kerrin C. Wolf, *Assessing Students’ Civil Rights Claims Against School Resource Officers*, 38 PACE L. REV. 215, 222–25 (2018); Fedders, *supra* note 78, at 573–74; Joseph B. Ryan, Antonis Katsiyannis, Jennifer M. Counts & Jill C. Shelnut, *The Growing Concerns Regarding School Resources Officers*, 53 INTERVENTION SCH. & CLINIC 188, 188 (2018).

¹¹⁵ Ben Brown, *Understanding and Assessing School Police Officers: A Conceptual and Methodological Comment*, 34 J. CRIM. JUST. 591, 591, 596 (2006).

¹¹⁶ See Gupta-Kagan, *supra* note 102, at 2015–18; Nance, *supra* note 3, at 936–40; Catherine Y. Kim, *Policing School Discipline*, 77 BROOK. L. REV. 861, 861–65 (2012); Michael Pinard, *From the Classroom to the Courtroom: Reassessing Fourth Amendment Standards in Public School Searches Involving Law Enforcement Authorities*, 45 ARIZ. L. REV. 1067, 1067–70 (2003).

¹¹⁷ See *New Jersey v. T.L.O.*, 469 U.S. 325, 340–42 (1985).

¹¹⁸ See, e.g., *People v. Dillworth*, 661 N.E.2d 310, 317 (Ill. 1996); *R.D.S. v. State*, 245 S.W.3d 356, 367–69 (Tenn. 2008); see also Gupta-Kagan, *supra* note 102, at 2024–30.

¹¹⁹ See, e.g., *C.S. v. Couch*, 843 F. Supp. 2d 894, 917–20 (N.D. Ind. 2011); *Boynton v. Casey*, 543 F. Supp. 995, 997 (D. Me. 1982).

¹²⁰ See, e.g., *S.E. v. Grant Cnty. Bd. of Educ.*, 544 F.3d 633, 640–41 (6th Cir. 2008).

¹²¹ See, e.g., *State v. J.T.D.*, 851 So. 2d 793, 797 (Fla. Dist. Ct. App. 2003); *In re Tateana R.*, 883 N.Y.S.2d 476, 477–78 (N.Y. App. Div. 2009); *J.D. v. Commonwealth*, 591 S.E.2d 721, 723–25 (Va. Ct. App. 2004).

2. Empirical Assessments of SRO/Police Presence in Schools

Framed by research literatures that explore the concurrent growth of high stakes student discipline policies and the growing presence of SRO/police in schools, this Article seeks to directly engage with the related nascent empirical literature. We seek to explore the potential relationship between the presence of SRO/police in a school and that school's likelihood of referring student discipline matters to law enforcement agencies.

In earlier leading empirical work on this topic, one of the authors of this Article finds that "a police officer's regular presence at a school is predictive of greater odds that school officials refer students to law enforcement . . . including [for] seemingly minor offenses."¹²² While Nance's prior work remains important, it uses an earlier (2009–2010) 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 coding adjustments notwithstanding, in many ways this Article seeks to update, expand, and build upon Nance's earlier influential work.

Other scholars have also exploited earlier versions of the SSOCS data set. Na and Gottfredson, for example, drew from the 2007–2008 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.¹²³ Unlike Nance's study, however, Na and Gottfredson's models do not control for 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."¹²⁴ Interestingly, 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."¹²⁵ Of course, Na and Gottfredson's conclusion pivots on school-level racial/ethnic (and other) data as opposed to student-

¹²² Nance, *supra* note 3, at 927.

¹²³ See Na & Gottfredson, *supra* note 3, at 639, 640. It is perhaps worth noting that in supplemental analyses Na and Gottfredson drew on even earlier SSOCS data sets (2003–2004, 2005–2006, 2007–2008). See Na & Gottfredson, *supra* note 3, at 637.

¹²⁴ *Id.* at 642.

¹²⁵ *Id.*

level data on the actual students involved in school reports to law enforcement agencies. Indeed, Nance, using similar SSOCS data sets, concluded that strong distributional claims about school reporting practices were not prudent given the data limitations.¹²⁶

We have thus far not found any published article that focuses on a possible relationship between a school's rate of reporting incidents to law enforcement officials and the presence—as well as magnitude—of law enforcement officials at the schools using the more recent 2015–2016 SSOCS data set.¹²⁷ We are similarly unaware of any published work that includes statistical controls for state reporting requirements and student per pupil spending. Finally, we are similarly unfamiliar with any published work that estimates selection models.

II. DATA AND EMPIRICAL STRATEGY

Our study uses the nation's leading cross-sectional data set on public school crime and safety and supplements those data with complementary information from other leading and long-standing data sets. We test our various research hypotheses with three different, though related, empirical specifications.

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 2015–2016 school year ("SSOCS").¹²⁸ We use the restricted-access version of the SSOCS data set that benefits from more granular school-level counts of the number of student disciplinary incidents that schools reported to law enforcement

¹²⁶ See Nance, *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").

¹²⁷ We want to acknowledge that the U.S. Department of Education has published a report that both promotes and summarizes a few variables from the SSOCS 2017–2018 data set. See generally DILIBERTI, JACKSON, CORREA, PADGETT & HANSEN, *supra* note 26. For a brief summary of some of the results published here see generally Michael Heise & Jason P. Nance, *Following Data: The "Defund the Police" Movement's Implications for Elementary and Secondary Schools*, 110 J. CRIM. L. & CRIMINOLOGY ONLINE 63 (2020).

¹²⁸ Various results discussed in this Article also derive from the restricted-use version of the 2009–2010 SSOCS data series. SSOCS data sets dominate the empirical literature seeking to assess schools' SRO/police presence influence on student referrals to law enforcement agencies. See, e.g., *supra* note 6.

agencies as well as the number of full- and part-time SRO/police officers at each school.¹²⁹

To construct its sample, drawn from the universe of American public K-12 schools, the National Center for Education Statistics (“NCES”) used the 2013–2014 school year Common Core of Data Public Elementary/Secondary School Universe File (“CCD”)¹³⁰ to help ensure that the weighted SSOCS data set reflects a representative sample of American public K-12 schools.¹³¹ Insofar as this study seeks information on “typical” or “regular” schools, those schools classified as something other than “regular” were excluded from analyses.¹³² Moreover, additional school-level data from the CCD were also used to develop various “framing” variables included in the SSOCS data set. The 2015–2016 SSOCS data set is the most recent in a periodic series

¹²⁹ Institute of Education Science, Data Security Office, User License No.19110005. The public version of the SSOCS data set and codebook are available at *2015-2016 School Survey on Crime and Safety (SSOCS) Public-Use Data Files and Codebook*, NAT’L CTR. FOR EDUC. STAT., <https://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2018109> [<https://perma.cc/ZW5V-AKRS>] (last visited Mar. 5, 2021). The restricted-use version of the 2015–2016 SSOCS data set includes a greater level of detail in the data compared to public-use data files. *See generally Statistical Standards Program: Getting Started*, NAT’L CTR. FOR EDUC. STAT., https://nces.ed.gov/statprog/instruct_gettingstarted.asp [<https://perma.cc/W7JE-WEEU>] (last visited Mar. 5, 2021). 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.

¹³⁰ The Common Core of Data (CCD) “is an NCES annual census system that collects fiscal and non-fiscal data on all public schools, public school districts, and state education agencies in the United States.” NAT’L CTR. FOR EDUC. STAT., U.S. DEPT. OF EDUC., 2015–16 SCHOOL SURVEY ON CRIME AND SAFETY (SSOCS): RESTRICTED-USE DATA FILE USER’S MANUAL 8 (2017) [hereinafter CODEBOOK] (on file with author). For additional descriptions of the CCD see Nance, *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).

¹³¹ The total number of public schools sampled was 3,553; of those, 2,092 schools submitted completed questionnaires for an overall response rate of 62.9% (weighted sample; 58.9% (raw sample)). *See* CODEBOOK, *supra* note 130, at 1, 29; *see also* MICHAEL JACKSON, MELISSA DILIBERTI, JANA KEMP, STEVEN HUMMELL, CHRISTINA COX, KOMBA GBONDO-TUGBAWA, DILLON SIMON & RACHEL HANSEN, NAT’L CTR. FOR EDUC. STAT., U.S. DEPT. OF EDUC., 2015–16 SCHOOL SURVEY ON CRIME AND SAFETY (SSOCS); PUBLIC-USE DATA FILE USER’S MANUAL 1 (2018), <https://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2018107> [<https://perma.cc/DND6-2Y6Q>].

¹³² 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 schools) and serve as the focus of this study. This Article’s focus on “regular” public schools is consistent with parallel empirical work, particularly in the school finance literature. *See* IVY MORGAN & ARY AMERIKANER, THE EDUC. TRUST, FUNDING GAPS 2018: TECHNICAL APPENDIX 3 (2018).

that began in the 1999–2000 school year.¹³³ 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.¹³⁴

Unlike past studies that use earlier versions of the SSOCS data set, our study supplements the SSOCS data set in two important ways that potentially inform the likelihood 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.¹³⁵ 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”¹³⁶ 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 authorities regardless of surrounding or mitigating circumstances. At the same time, many state statutes go beyond federally imposed requirements and mandate that schools also refer to law enforcement agencies a range of student incidents and offenses that do not involve a firearm or weapon.¹³⁷

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

¹³³ Prior SSOCS data sets were collected in the 1999–2000, 2003–2004, 2005–2006, 2007–2008 and 2009–2010 school years. CODEBOOK, *supra* note 130, at 1. While not publicly-available during the execution of this study, the Department of Education recently made available the 2017–2018 version of the SSOCS data set.

¹³⁴ 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 130, at 20.

¹³⁵ In this way our current study more helpfully aligns with Nance’s prior study of 2009–2010 SSOCS data. *See* Nance, *supra*, note 3, at 934–36.

¹³⁶ 20 U.S.C. § 7151(h)(1); *see also* FLA. STAT. § 1006.07(1) (2014) (mandating that any student who brings a firearm or weapon to any school function will be expelled for a period not less than a year and “referred to the criminal justice or juvenile justice system”).

¹³⁷ *See supra* Part I.A.1.

literature.¹³⁸ 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.¹³⁹ 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.¹⁴⁰

B. DEPENDENT VARIABLES

This Article's main analytic focus dwells on the possible relation between the presence—as well as magnitude—of SRO/police at a school and that 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 2015–2016 school year as well as the subset of those incidents that resulted in school referrals to law enforcement agencies. The student discipline incident types that triggered school referrals to law enforcement agencies ranged from rapes and robberies with a weapon to the distribution, possession, or use of prescription drugs and alcohol as well as student “vandalism.”¹⁴¹

The various student discipline incidents that prompted school reports to law enforcement agencies contributed to the creation of three separate dependent variables of interest. First, a dummy variable signals whether a school made at least one report to a law enforcement agency about a student incident at school during the 2015–2016 school year. Second, a continuous

¹³⁸ See Michael Heise, *Per Pupil Spending and Poverty's Persistent Penalty: An Empirical Analysis of 2016 District-Level NCES Data*, 45 J. EDUC. FIN. 149, 154–57 (2019) (comparing leading per pupil spending measures).

¹³⁹ 2016 *Public Elementary-Secondary Education Finance Data*, U.S. CENSUS BUREAU, <https://www.census.gov/data/tables/2016/econ/school-finances/secondary-education-finance.html> [<https://perma.cc/DMP5-V5WR>] (last visited Mar. 5, 2021).

¹⁴⁰ 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/AAK8-SX3D>]. For a discussion of some of the limitations of the CWI adjustment, see Heise, *supra* note 138, at 154–55 n.20; Thomas A. DeLuca, *Instructional Spending Metrics: A Multilevel Analysis Using NCES Data*, 44 J. EDUC. FIN. 23, 42 (2018).

¹⁴¹ The SSOCS data derive from school administrators' reports on, for example, “recorded student incidents.” As such, while instructions describing how such variables were intended to be operationalized were included with the surveys to promote consistency across schools, to some unknown degree these data inevitably reflect school administrators' interpretations of what constitutes a “student incident” warranting “recording.” See CODEBOOK, *supra* note 130, at 41.

variable captures a school's rate (per 100 students) of student incident reports to law enforcement agencies. Finally, 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 incidents warranted close inspection. This is especially true to the extent that some schools may have been systematically less inclined to report non-violent student incidents to law enforcement agencies. To this end we constructed a third dependent variable designed to capture a school's rate (per 100 students) of student incident reports to law enforcement agencies for the subset of non-violent student incidents. Our decision to transform raw school report counts into school report rates (per 100 students) seeks to account for variation in school size or scale (expressed in terms of student enrollment) across the sampled schools.¹⁴²

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 2015–2016 school year. The mean rate of school reports to law enforcement agencies is just under one (0.77) per 100 students.¹⁴³ The mean rate of school reports involving non-violent student incidents is well under one-half (0.33) per 100 students.¹⁴⁴

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 presence—and magnitude—of law enforcement officials at the school, our key independent variables of interest relate to a school's SRO/police presence. Specifically, we focus not only on whether a school

¹⁴² Unreported alternative specifications exploring schools' rates of student disciplinary incident reports to police use the square root of the rate as its distribution is less distorted by 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.4.

¹⁴³ 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.

¹⁴⁴ 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.

has any full- or part-time SRO or sworn police officers present at least once a week at their school but also how many.

Based on reports from school administrators we assessed this by constructing two related but independent variables. One is a dummy variable that signals those schools who reported the presence of either a full- or part-time SRO/police officer at their school at least once a week. Including this dummy variable facilitates comparisons with prior scholarship using earlier SSOCS data sets.¹⁴⁵ As Table 1 illustrates, 50% of the regular schools in our weighted sample reported at least one full- or part-time SRO/police officer on site at least once a week during the 2015–2016 school year.

Many prior studies compare schools who reported the presence of either a full- or part-time SRO/police officer present at the school at least once a week with those schools that lack any SRO/police presence. Such studies, while helpful, ignore how variation in the magnitude of a school's SRO/police presence across schools may itself inform the likelihood of a school referring student incidents to law enforcement. That is, a greater number of SRO/police at a school may itself exert upward influence on the number of school reports to law enforcement agencies. To better explore this possibility, we created a second independent variable assessing the total number of SRO or sworn police officers at a school. Interestingly, as Table 1 illustrates, one-half of the sampled schools report any law enforcement presence; the mean SRO/police presence is just under one (0.84) official per school.¹⁴⁶

In addition to its SRO/police presence, if any, a school's likelihood 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 presence of SRO/police at a school. The various control variables we consider loosely organize into two general categories: school- and student-level factors.

¹⁴⁵ For a similar approach toward this key independent variable, see, e.g., Nance, *supra* note 3, at 961–62 n.216. The SRO/police calculation excludes any security guards or other individuals contributing to school safety who are not sworn law enforcement officers. See *supra* note 129.

¹⁴⁶ Insofar as only one-half of the schools in our sample report *any* SRO/law enforcement officials present at least once a week, the effective number of law enforcement officials at schools that report any is approximately 1.6 per school.

D. CONTROL VARIABLES

1. School-Level Variables

Insofar as we seek to estimate models assessing the likelihood 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).¹⁴⁷ 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 2015–2016 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 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 (2015–2016) current per pupil spending. We do so because we wonder whether variation in the distribution of student investment across schools might contribute to variation in schools' rate of reporting student incidents to law enforcement authorities. And even

¹⁴⁷ 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.

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 do so, and to extend existing research, 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 information¹⁴⁸ supplemented by the U.S. Department of Education's National Center for Education Statistics Comparable Wage Index. The supplemental data adjust for cost-of-living variation across the nations more than 13,000 public school districts.¹⁴⁹ We settled on current expenditures partly because it facilitates comparisons of student investment across the widest array of studies in the school finance literature.¹⁵⁰ 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 2015–2016.

Slightly complicating our decision to include per pupil spending data is that our data include school *district*-level means. The total (raw) number of schools in our sample (1,890) derives from 1,490 different school districts. Thus, 400 schools in our sample come from a district that includes at least one or more other schools in the sample. For those schools that share a school district, their district-level current per pupil spending value does not vary. While admittedly not ideal, to the extent that attention to per pupil spending discrepancies typically focuses on variation *across*—rather than *within*—school districts, the district-level per pupil spending data should not unduly distort our results.¹⁵¹ Finally, what little empirical evidence exists suggests that, when it comes to within district school spending variations, in many instances schools serving higher concentrations of minority students or students from low-income households can receive more in terms of per pupil spending than schools serving a smaller percentage of minority students or those from low-income households or both.¹⁵²

¹⁴⁸ See *2016 Public Elementary-Secondary Education Finance Data*, *supra* note 139.

¹⁴⁹ For a detailed description and explanation of the Comparable Wage Index see generally TAYLOR & FOWLER, *supra* note 140. For a discussion of some of the limitations of the CWI adjustment see DeLuca, *supra* note 140, at 42.

¹⁵⁰ For a discussion of the various leading per pupil spending measures, see Heise, *supra* note 138, at 154–57 (comparing leading per pupil spending measures).

¹⁵¹ *But see* Ary Amerikaner, *The Hidden Inequality in Schools*, N.Y. TIMES, January 30, 2020, at A31 (noting that in some school districts consequential per pupil spending variation exists across schools).

¹⁵² See generally Simon Ejdemyr and Kenneth A. Shores, Pulling Back the Curtain: Intra-District School Spending Inequality and its Correlates, (July 31, 2017) (unpublished manuscript), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3009775 [<https://perma.cc/>

Insofar as mandatory school reporting obligations for various student incidents bear, by design, 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.¹⁵³ To accomplish this 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, our sample reflects this (59% of the sampled schools are elementary schools), most 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 2015–2016 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.¹⁵⁴ Insofar as the reference group for interpreting the elementary school dummy variable includes all "non-elementary" schools,¹⁵⁵ what we expect to find is that elementary schools report systematically fewer school incidents reports to law enforcement and a comparatively smaller SRO/police presence. Despite our own "priors" about elementary schools, violence, and school reporting, what we found is a larger number of student incidents as well as more SRO/police assigned to elementary schools than we initially expected.¹⁵⁶ Finally, as school-to-prison pipeline hypotheses

R4ZT-WHQB] (observing that schools serving higher need students often noted for comparatively greater per pupil spending levels).

¹⁵³ Our focus on state-specific mandatory reporting statutes implicitly acknowledges that application of relevant federal reporting requirements, by definition, should not have varied across the schools in our sample. State-level mandatory reporting requirements, by contrast, did vary.

¹⁵⁴ 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.

¹⁵⁵ And this reference group includes all middle and high schools, as well as schools that combine middle and high school grades.

¹⁵⁶ See *infra* tbl.6.

likely cut in anomalous and unexpected ways in the elementary school context, we focus on the elementary school context in supplemental analyses.¹⁵⁷

2. 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.¹⁵⁸ Factors aligning with various student 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.¹⁵⁹ Moreover, as boys are more likely than girls to trigger school discipline matters, we also control for a school's percentage of male students.¹⁶⁰ Table 1 presents basic summary statistics on all the variables considered in our various models.

¹⁵⁷ See *infra* Part III.C.

¹⁵⁸ See, e.g., DAVID CANTOR & MAREENA MCKINLEY 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-violence/school-crime-pattern.pdf> [<https://perma.cc/92YW-GGWQ>] (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 95, at 20 (observing that crime is more common in schools that serve students from disadvantaged backgrounds). See generally 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) (finding that exclusionary student security measures are more common in comparatively more non-white schools).

¹⁵⁹ 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 Heise, *supra* note 138, at 158.

¹⁶⁰ For example, compare Skiba, Michael, Nardo & Peterson, *supra* note 19, at 320 ("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 Jr., Goodkind, Wallace & Bachman, *supra* note 19, at 54 ("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, *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

	Mean	Std. Dev.
<i>Dep. vars:</i>		
School reported one or more incident to police (1=yes)	0.49	0.50
Rate of school police reports (per 100 students) [all]	0.77	1.92
Rate of school police reports (per 100 students) [non-violent]	0.33	0.79
<i>Ind. vars:</i>		
Was a full- or part-time SRO/police at school (1=yes)	0.50	0.50
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. school violent incident report req. (1=yes)	0.90	0.30
Mand. school non-violent incident report req. (1=yes)	0.69	0.46
School student poverty %	56.15	27.29
School student nonwhite %	43.1	32.92
School student Black %	12.46	20.91
School student male %	49.7	9.1
School district 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. Dept. Educ., Nat'l Ctr. Educ. Statistics, 2015–2016 School Survey on Crime and Safety (SSOCS); U.S. Dept. Comm., Census Bureau, 2016 Public Elementary-Secondary Education Finance File (2016).

E. EMPIRICAL STRATEGY

We test our various research hypotheses with three different, though related, empirical specifications. One general question (and one pursued in prior research¹⁶¹) involves whether the presence of *any* SRO/police at a school influences the likelihood of that school referring student discipline incidents to law enforcement agencies. To explore this question, we estimate logistic regression models of whether a school referred any student incidents to law enforcement agencies and include a dummy variable signaling whether the school had any SRO/police present at school at least one day per week.

A separate—though related—research question considers whether the *magnitude* of a school's SRO/police presence influences a school's

¹⁶¹ See, e.g., Nance, *supra* note 3, at 969 tbl.2 (analyzing 2009–2010 SSOCS data).

propensity to report student discipline incidents to law enforcement agencies. Our approach to this question exploits potentially systematic variation supplied by more granular information included in our key variables of interest—the rate of a school’s reports to law enforcement agencies and the number of SRO/police officials present at each school. To do so, we estimate fractional response regression models of a continuous variable—the rate of school incident reports to law enforcement—bounded between zero and one.¹⁶²

Finally, we pursue a third question with a selection strategy. The sub-pool of student disciplinary incidents that triggered school referrals to law enforcement agencies derives from the broader universe of total student disciplinary incidents “recorded” at a school.¹⁶³ One key across-school variation of interest involves whether, for any given student disciplinary incident recorded at a school, a school referral to a law enforcement agency ensued. Approximately 20% of the schools in our sample, however, did not experience *any* recorded student disciplinary incidents and, by definition, had nothing to consider in terms of reporting to law enforcement agencies. Moreover, our instinct is that the distribution of total student disciplinary incidents across schools is unlikely random and our data permit us to structure a two-stage inquiry that exploits this distribution. To pursue this, we estimate a two-stage Heckman selection model. In stage one we model whether a school experienced a student disciplinary “incident” (one or more); stage two then models the rate of a school’s reports (or non-reports) to law enforcement agencies, conditioned on the school having experienced at least one incident.

F. DATA AND EMPIRICAL STRATEGY LIMITATIONS

Despite the SSOCS data set’s obvious merits, 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

¹⁶² Insofar as our dependent variable is a rate (or fraction) bounded between zero and one (inclusive), we preferenced 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. SCH. VIOLENCE 362, 367 (2020) (presenting results from negative binominal regression models).

¹⁶³ See *supra* note 147 and accompanying text.

involved in the disciplinary incidents that triggered school reports to law enforcement agencies. The absence of such information, of course, 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, given the absence of particularized and follow-up data on those students who engaged in incidents 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.

Of course, the absence of more particularized data on the law enforcement agency referrals' outcomes, however, does little to deflect from the larger point that *any* student referral to a law enforcement agency is plausibly important and, to some extent, likely changes that student's future for the worse. Regardless of any formal legal consequences, a school's referral to law enforcement can also culminate with student discipline, suspensions, or expulsions in the school context.¹⁶⁴

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, we would (for example) randomly assign SRO/police to otherwise identical schools (as it relates to our various dependent variables of interest) to assess 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. Our lack of control over randomization precludes us from assessing casual direction with precision. For example, the number of 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

¹⁶⁴ See *Hawker v. Sandy City Corp.*, 774 F.3d 1243, 1245–46 (10th Cir. 2014) (observing how schools' student disciplinary referrals to law enforcement contribute to a "school-to-prison pipeline").

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 likelihood 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.¹⁶⁵

As Table 1 reveals that one-half of the sampled schools did not have any SRO/police presence, Table 2 provides a glimpse into how schools with an SRO/police presence (one or more) compare with schools that did not have any. In general, schools with an SRO/police presence reported slightly high school disorder rates, larger student enrollments, and spent a bit less per pupil than schools without an SRO/police presence. Table 2 also makes clear that an SRO/police presence was less common in elementary schools.

¹⁶⁵ As well, the data and empirical strategy factors that limit the force of the claims in this study are similar to limitations that attach to prior studies on this topic. *See, e.g.*, Nance, *supra* note 3, at 971.

Table 2: Comparing School Means With and Without Any SRO/Police Presence

	<i>With</i>	<i>Without</i>
<i>Ind. vars:</i>		
School student:teacher ratio	17.14	18.44
School student mobility % (in/out)	15.62	14.48
School urbanicity scale (rural-to-urban; 1-4)	2.53	2.49
School disorder report rate (per 100 students)	1.91	1.23
School area crime scale (low-to-high; 1-3)	1.31	1.31
School student enrollment	714.52	476.29
Elementary school (1=yes)	0.45	0.74
Mandatory school violent incident report req. (1=yes)	0.88	0.92
Mandatory school non-violent incident report req. (1=yes)	0.66	0.71
School student poverty %	55.65	56.65
School student nonwhite %	42.81	43.38
School student Black %	13.35	11.56
School student male %	49.54	49.86
School district mean per pupil spending (2016 \$)	10,885	11,509
<i>N (raw)</i>	<i>1,270</i>	<i>620</i>

NOTES: Reported means derive from the SSOCS weighted sample.

SOURCES: U. S. Dept. Educ., Nat'l Ctr. Educ. Statistics, 2015–2016 School Survey on Crime and Safety (SSOCS); U.S. Dept. Comm., Census Bureau, 2016 Public Elementary-Secondary Education Finance File (2016).

III. RESULTS AND DISCUSSION

Our initial logistic regression models more closely hew to prior scholarship, and results from these models facilitate comparisons to earlier studies. In alternative, though complementary, analyses we estimate fractional regression models appropriate for a more granular dependent variable expressed as a school's *rate* of reporting student discipline incidents to law enforcement agencies. An additional set of analyses considers—and endeavors to adjust for—the possible influence of selection effects. Finally, insofar as elementary schools may behave systematically differently in the student discipline context, we repeat our core analyses on elementary schools.

A. LOGISTIC AND FRACTIONAL REGRESSION MODELS

We begin our analyses at a general level to facilitate comparisons with prior scholarly work using earlier SSOCS data sets. Specifically, we initially consider whether *any* SRO/police presence (no matter how large or small) at a school influences the likelihood of that school referring student disciplinary incidents to law enforcement agencies. To assess this question, we estimate logistic models of whether a school referred any student incidents to law

enforcement agencies and include a dummy variable signaling whether a school had any SRO/police presence.

Results presented in Table 3 provide some level of clarity as well as introduce a potentially informative—if complicating—wrinkle. As our naïve model (Model 1) makes clear, any SRO/police presence at a school corresponds with an increased likelihood of that school reporting one (or more) student incidents to law enforcement agencies. While the addition of our suite of control variables into the right-hand side of our equation (Model 2) dampens the statistical influence attributable to a school's SRO/police presence, this variable nonetheless persists as statistically important. At the same time, other control variables also emerge as important and most do so in the expected directions. In particular, schools that are comparatively larger, more urban, and that report higher student “disorder” rates systematically increase the odds of the school referring student incidents to law enforcement agencies. Elementary schools, by contrast, were comparatively less likely to report.¹⁶⁶

Model 3 explores an analogous—though distinct—question. Where models 1 and 2 explore the influence of *any* SRO/police presence on a school's likelihood of reporting student incidents to law enforcement agencies, model 3 considers whether variation in the *size* of a school's SRO/police presence matters. And the (null) result in model 3 implies—in conjunction with results from models 1 and 2—that when it comes to increasing the likelihood of a school referring one or more student incidents to law enforcement agencies, what matters was whether a school had an SRO/police presence rather than the size of that presence. Moreover, results in models 2 and 3 are notable for key control variables' robustness, specifically variables relating to schools' size and student disorder rates. Finally, our findings in Table 3 generally comport with prior scholarship that analyzes earlier SSOCS data sets.¹⁶⁷

Results in Table 3 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

¹⁶⁶ As elementary schools may be somewhat anomalous for an array of reasons, we explore them further in separate analyses. *See infra* Part III.C.

¹⁶⁷ *See, e.g.*, Nance, *supra* note 3, at 969 (reporting similar overall findings analyzing 2009–2010 SSOCS data).

individual-level student sub-groups, particularly the comparatively more vulnerable student sub-groups.¹⁶⁸

Our findings do shed light—if incomplete—on how law enforcement agency referrals distribute across *schools* with various student sub-group compositions. Notably, as Table 3 illustrates, a school's percentage of students in poverty, Black students, nonwhite 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. While we are mindful that null results are quite limited in what they can appropriately bear analytically, in this context, the absence of statistical evidence of problematic school-level distributional factors caught our attention. Enhancing our surprise with these null findings is their juxtaposition with the often strong and persistent distributional concerns found in the existing literature.¹⁶⁹

Finally, and somewhat surprisingly, we note the uneven results for the state-level mandatory reporting requirement variables in Table 3. What the results imply is that the presence of mandatory reporting requirements for non-violent student incidents corresponds with a reduction in the odds that a school reported a student disciplinary incident to a law enforcement agency. At the risk of trying to explain the inexplicable, we note that both state mandatory reporting requirement variables do not vary all that much across the states. In addition, along with various state and federal reporting requirements, many schools and their districts have their own policies, practices, or norms relating to student disciplinary referrals.¹⁷⁰ These risk

¹⁶⁸ The SSOCS data set does not include individualize information of the actual students whose conduct triggered a law enforcement referral.

¹⁶⁹ See, e.g., Na & Gottfredson, *supra* note 3, at 623; Torres & Stefkovich, *supra* note 3, at 463. Our results generally comport with F. Chris Curran and his colleagues' findings from observing the effects of SRO programs on students, including the frequency of student arrests, in two mid-sized suburban school districts in the South. See *supra* notes 69–73 and accompanying text (“SROs tended to view the risk of threats and their approaches to school discipline similarly, regardless of the racial composition of the school.”). However, an importance difference between our study and their study is that we examined schools' likelihood of reporting student incidents to law enforcement agencies, whereas they examined SROs' approach to student discipline, including student arrests. See CURRAN, FISHER, VIANO & KUPCHIK, *supra* note 69, at 31–32. Our results also somewhat parallel results from a small handful of empirical studies of exclusionary school discipline. Specifically, some studies show that Black students are not subject to exclusionary discipline at higher rates for more serious and objectively defined offenses, especially when discipline is mandated. See *supra* notes 58–59 and accompanying text; see also Heise & Nance, *supra* note 18, at 24–28.

¹⁷⁰ See, e.g., CHICAGO PUBLIC SCHS., STUDENTS RIGHTS AND RESPONSIBILITIES 2019-20, at 11 (2019); HOUS. INDEP. SCH. DIST., 2019-2020 CODE OF STUDENT CONDUCT 12, 13, 16 (2019).

injecting some level of imprecision into our mandatory reporting requirement variables.

Table 3: Logistic Regression Models of Whether a School Reported a Student Discipline Incident to a Law Enforcement Agency

	(1)		(2)		(3)	
Full- or pt.-time SRO/police (1=yes)	2.85**	(0.37)	1.51*	(0.25)	---	
Num. of full- and pt.-time SRO/police at school			---		1.06	(0.05)
School student:teacher ratio			1.00	(0.00)	1.00	(0.00)
School student mobility % (in/out)			1.00	(0.01)	1.00	(0.01)
School urban. scale (rural-to-urban)			1.18*	(0.10)	1.18	(0.10)
School disorder report rate (per 100)			1.26**	(0.09)	1.26**	(0.09)
School area crime scale (lo-to-hi)			1.37	(0.26)	1.35	(0.25)
School student enrollment			1.00**	(0.00)	1.00**	(0.00)
Elementary school (1=yes)			0.17**	(0.03)	0.16**	(0.03)
Violent incident report req. (1=yes)			0.78	(0.22)	0.74	(0.21)
Non-violent incident report req. (1=yes)			0.68*	(0.13)	0.69*	(0.13)
School poverty %			1.01	(0.00)	1.01	(0.00)
School nonwhite %			1.00	(0.00)	1.00	(0.00)
School Black %			0.99	(0.01)	0.99	(0.01)
School male %			0.98	(0.01)	0.98	(0.01)
School district mean per pupil spending			1.00	(0.00)	1.00	(0.00)
Constant	0.56**	(0.05)	1.12	(0.72)	1.14	(0.89)
Pseudo R ²	0.05		0.27		0.27	
<i>N</i> (raw)	1,890		1,890		1,890	

NOTES: Whether a school reported a student disciplinary incident to law enforcement agencies (1=yes). Robust standard errors, clustered on school district, in parentheses. The models were estimated using the “logistic” command in Stata (v.16.1) and used SSOCS weighted data. * $p < 0.05$; ** $p < 0.01$.

SOURCES: U.S. Dept. Educ., Nat’l Ctr. Educ. Statistics, 2015–2016 School Survey on Crime and Safety (SSOCS); U.S. Dept. Comm., Census Bureau, 2016 Public Elementary-Secondary Education Finance File (2016).

While results from our logistic regression specifications (reported in Table 3) are necessary to help tether our study to prior leading scholarship using earlier SSOCS data sets, such specifications do not fully exploit helpful additional variation contained in the data set. To explore further, we considered how variation in the number of SRO/police officials present at each school informed the school’s rate of reporting student discipline incidents to law enforcement agencies. To do so, we estimate fractional response regression models (Table 4) of a continuous rate (or fractional)

variable—specifically, the rate of school incident reports to law enforcement agencies. In this way we can better assess whether variation in a school's SRO/police presence size corresponds with variation in school reporting rates.

Comparing results presented in Tables 3 and 4 reveals how key findings generally persist across different models and empirical approaches as well as comport with the weight of existing empirical research. Specifically, an increase in the size of a school's SRO/police presence consistently and strongly correlates with an increase in a school's rate of law enforcement agency referrals. And this result emerges for all student disciplinary incidents (model 1) as well as for the subset of non-violent incidents (model 2). 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 perhaps have a history of doing so, when it comes to law enforcement reporting results, Table 4 suggests that schools appear to have treated violent and non-violent student discipline incidents similarly.

Also similar to Table 3 is that none of the results in Table 4, with one exception, provide support for distributional concerns. 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).

The influences of a school's disorder rate, student enrollment, and enrollment stability (or student mobility) also persisted across our different empirical approaches. Another enduring influence is that elementary schools correspond with a reduced likelihood of school reporting to law enforcement agencies. 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 *decreased* likelihood of school reports of non-violent student incidents, thereby contributing further confusion about the influence of mandatory reporting requirements.

Table 4: Fractional Response Regression Models of School Report Rates for All and Non-Violent Student Discipline Incidents to Law Enforcement Agencies

	(1)		(2)	
	<i>All Incidents</i>		<i>Non-violent Incidents</i>	
Ttl. SRO/police at school	1.03**	(0.01)	1.02**	(0.01)
School student:teacher ratio	0.99	(0.01)	1.00	(0.00)
School student mobility % (in/out)	1.02*	(0.01)	1.01*	(0.00)
School urban. scale (rural-to-urban)	0.93	(0.07)	0.97	(0.05)
School disorder report rate	1.06**	(0.02)	1.03**	(0.01)
School area crime scale (lo-to-hi)	1.07	(0.12)	1.21*	(0.11)
School 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)
School poverty %	1.00	(0.00)	1.00*	(0.00)
School nonwhite %	1.00	(0.00)	1.00	(0.00)
School Black %	1.00	(0.00)	0.99	(0.00)
School male %	0.98	(0.01)	1.00	(0.01)
School district 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>	<i>1,890</i>		<i>1,890</i>	

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. Dept. Educ., Nat’l Ctr. Educ. Statistics, 2015–2016 School Survey on Crime and Safety (SSOCS); U.S. Dept. Comm., Census Bureau, 2016 Public Elementary-Secondary Education Finance File (2016).

B. THE SPECTER OF SCHOOL SELECTIONS

A school’s referral of a student disciplinary incident to a law enforcement agency requires, by definition, the existence of a recorded student “incident.” Approximately 20% of the schools in our weighted sample, however, did not experience *any* recorded student “incidents” during the 2015-16 school year and, thus, did not even have to consider whether any particular student discipline incident rose to the level of warranting a report to a law enforcement agency. What this means is that the 51.5% of schools that reported no incidents to law enforcement agencies includes a consequential number of schools (20.2%) that did not experience *any*

recorded student disciplinary incidents. While both sets of schools report a referral rate of zero (0.0) in our data set, such a referral rate from schools that experienced no recorded student disciplinary incidents meaningfully differs from the same reported rate (zero) from schools that experienced recorded student incidents and yet, for whatever reason or reasons, affirmatively declined to refer any of the recorded student discipline incidents to law enforcement agencies.

In addition, our collective instinct is that the 20.2% of the schools in our sample that did not experience any recorded student disciplinary incidents likely systematically varies from schools that did. Consequently, such factors introduce the potential influence of selection bias. To explore this possibility, we turned to a two-stage Heckman model to better account for possible selection effects. In stage one we model whether a school experienced any recorded student disciplinary incident (one or more); stage two then models a school's rate of reports to law enforcement agencies, conditioned on the school having experienced at least one recorded student discipline incident.

When conditioned on having experienced at least one recorded student disciplinary incident, results from the top panel in Table 5 (the second-stage) generally comport with prior results (Tables 3 and 4) for our key variables of interest. When it comes to predicting variation in schools' rates of law enforcement agency referrals, what persists as important include the size of a school's SRO/police presence, its student disorder rate, and whether it is an elementary school. Also consistent with our prior findings is that results in Table 5 do not contribute to any distributional concerns.

Results in Table 5 also introduce a few new additional wrinkles. For example, emerging as statistically important for the first time in Table 5 is that a reduction in a school's student:teacher ratio corresponds with an increase in the school's law enforcement agency referral rate. In addition, and parallel to the student:teacher ratio finding, a focus only on non-violent incidents (model 2) reveals that an increase in student enrollment correlates with an increase in the rate of school referrals. Finally, similar to what we find in Table 4, results in Table 5 illustrate that only non-violent student incident mandatory reporting requirements achieve statistical significance and correspond with a decrease in school referrals to law enforcement agencies.

Our initial instinct that the subset of schools that experienced no recorded student disciplinary incidents systematically differs from the much larger subset of schools that experienced at least one student recorded discipline incident—and that this filtering may distort models of schools' law enforcement agency reporting tendencies—does not find support in our results, as the *Rho* test statistics do not achieve statistical significance. While

a two-stage specification may not be necessarily required by our data set's underlying structure we remain, as of yet anyway, unprepared to entirely dismiss the possible influence of selection effects, particularly as the *Rho* test statistic is notoriously sensitive to model specification.¹⁷¹ If nothing else, results in Table 5 provide yet another robustness check for our core results and selection model specifications offer an alternative approach to our data set's underlying structure.

Overall, when it comes to either whether schools report student disciplinary incidents to law enforcement agencies and, if they do, at what rate, we find consistent evidence—and across virtually all of our models—on two general points. First, a school's SRO/police presence exerts upward influence on the school's inclination to report student incidents to law enforcement agencies. This finding persists even when we focus on non-violent student disciplinary incidents. In addition to the importance of a school's SRO/police presence, other factors that also emerged as consistently influential include a school's disorder rate, enrollment factors, and whether a school is an elementary school.

A second key finding involves what we do *not* find. While *student*-level distributional concerns certainly remain a possibility (though outside of our data set's scope), our *school*-level findings, however, do not hint at any obvious distributional concerns. That is, in virtually all of our analyses across three separate analytical approaches, our results imply that increases in a school's percentage of Black, non-white, low-income, or male students do not systematically correlate with increases in the school's reporting rates to law enforcement agencies.¹⁷²

¹⁷¹ See Derek C. Briggs, *Causal Inference and the Heckman Model*, 29 J. EDUC. & BEHAVIORAL STATS. 397, 399–400, 403–04 (2004) (noting the Rho test statistic's sensitivity to model selection); see also Theodore Eisenberg & Michael Heise, *Plaintiphobia in State Courts? An Empirical Study of State Court Trials on Appeal*, 38 J. LEGAL STUDIES 121, 146 (2009) (same).

¹⁷² The only exception involves a school's percentage of low-income students in the non-violent student incident context (tbl.4, model 2).

Table 5: Selection Models of the Rate (per 100 students) of School Reports of All and Non-Violent Student Discipline Incidents to Law Enforcement Agencies and Total Recorded Student Discipline Incidents

	(1) <i>All Incidents</i>		(2) <i>Non-violent Incidents</i>	
<i>Rate of school police reports (per 100 students)</i>				
Total SRO/police at sch.	0.04*	(0.02)	0.02**	(0.01)
School student:teacher ratio	-0.00**	(0.00)	-0.00**	(0.00)
School student mobility % (in/out)	0.01	(0.01)	0.00	(0.00)
School urban. scale (rural-to-urban)	-0.06	(0.07)	-0.02	(0.02)
School disorder report rate (per 100)	0.24**	(0.08)	0.04**	(0.01)
School area crime scale (lo-to-hi)	0.01	(0.11)	0.06	(0.04)
School student enrollment	0.00	(0.00)	0.00**	(0.00)
Elementary school (1=yes)	-0.67**	(0.19)	-0.50**	(0.05)
Violent incident report req. (1=yes)	-0.38	(0.38)	0.10	(0.08)
Non-violent incident report req. (1=yes)	-0.27*	(0.12)	-0.20**	(0.05)
School poverty %	-0.00	(0.00)	0.00	(0.00)
School nonwhite %	0.00	(0.00)	0.00	(0.00)
School Black %	-0.00	(0.00)	-0.00	(0.00)
School male %	-0.02	(0.02)	-0.00	(0.00)
School dist. mean per pupil spending	-0.00	(0.00)	-0.00	(0.00)
<i>Constant</i>	2.46*	(1.01)	0.47**	(0.16)
<i>Any student incident at school? (1=yes)</i>				
SRO/police at school (1=yes)	0.07	(0.18)	0.06	(0.18)
School student:teacher ratio	0.03	(0.02)	0.03*	(0.02)
School student mobility % (in/out)	0.00	(0.01)	0.00	(0.01)
School urban. scale (rural-to-urban)	0.00	(0.10)	0.00	(0.10)
School disorder report rate (per 100)	83.72**	(14.27)	84.98**	(16.48)
School area crime scale (lo-to-hi)	0.47*	(0.22)	0.47*	(0.22)
School student enrollment	0.00*	(0.00)	0.00*	(0.00)
Elementary school (1=yes)	-0.94**	(0.20)	-0.88**	(0.22)
Violent. incident report req. (1=yes)	0.62	(0.39)	0.62	(0.39)
Non-violent. incident report req. (1=yes)	-0.29	(0.22)	-0.24	(0.23)
School poverty %	0.01	(0.00)	0.01	(0.00)
School nonwhite %	-0.01*	(0.00)	-0.01*	(0.00)
School Black %	-0.01	(0.01)	-0.01	(0.01)
School male %	0.00	(0.01)	-0.00	(0.01)
School district mean per pupil spending	-0.00	(0.00)	-0.00	(0.00)
<i>Constant</i>	-1.33	(0.72)	-1.17	(0.74)
Rho	0.19	(0.20)	-0.14	(0.35)
<i>N (raw)</i>	1,890		1,890	

NOTES: Model 1 explores all student disciplinary incidents; model 2 only non-violent incidents. For both models, the first-stage models whether a school experienced any recorded student disciplinary incidents. The second-stage models the rate (per 100

students) of school reports of all and non-violent student incidents to law enforcement agencies in models 1 and 2, respectively. Robust standard errors, clustered on school district, in parentheses. The models were estimated using the “heckman” command in Stata (v.16.1) and SSOCS weighted data. * $p < 0.05$; ** $p < 0.01$.

SOURCES: U.S. Dept. Educ., Nat’l Ctr. Educ. Statistics, 2015–2016 School Survey on Crime and Safety (SSOCS); U.S. Dept. Comm., Census Bureau, 2016 Public Elementary-Secondary Education Finance File (2016).

C. THE ELEMENTARY SCHOOL CONTEXT

Throughout our analyses we consistently find that the elementary school setting corresponds with a reduced likelihood of school referrals to law enforcement agencies. As the descriptive results in Table 6 illustrate, elementary school law enforcement agency referral rates consistently lag behind middle and high school rates. Moreover, this general finding persists across at least two separate administrations of the SSOCS survey (2009–2010 and 2015–2016 school years). Indeed, if anything, Table 6 evidences a decline in elementary school referrals between the 2009–2010 and 2015–2016 school years.

At one level these descriptive findings are intuitive, expected, and, frankly, refreshing. Given elementary school students’ tender years, at least as compared to their middle- and high school counterparts, we expected (if not hoped) to find that elementary schools were a less likely location for recorded student disciplinary incidents that might culminate in law enforcement agency referrals.¹⁷³ Indeed, results in Table 6 support our intuition and illustrate that the average number of recorded student disciplinary incidents (the universe of student disciplinary matters from which school administrators decide which student incidents warrant a referral to law enforcement agencies) in elementary schools both declined over time and in all instances lagged behind the average number of recorded student incidents in middle and high schools. Thus, our prior findings evidencing elementary schools’ comparatively lower student discipline referral rates make sense insofar as this outcome may reflect the comparatively fewer (and,

¹⁷³ We are mindful, of course, that arrests of young children sometimes do occur and, when they do, often capture the attention of the nation and draw particular concern. See, e.g., *Handcuffed 5-Year-Old Sparks Suit*, CBS NEWS (Apr. 25, 2005, 9:40 AM), <https://www.cbsnews.com/news/handcuffed-5-year-old-sparks-suit/> [<https://perma.cc/J6D9-AJ7S>]; Bob Herbert, *6-Year-Olds Under Arrest*, N.Y. TIMES (Apr. 9, 2007), http://www.nytimes.com/2007/04/09/opinion/09herbert.html?_r=0 [<https://perma.cc/2ULY-UPJH>]; see also Jesselyn McCurdy, *Targets for Arrest*, in FROM EDUCATION TO INCARCERATION: DISMANTLING THE SCHOOL-TO-PRISON PIPELINE 86, 90–93 (Anthony Nocella, Priya Parmar & David Stovall eds., 2014).

we presume, less severe) recorded student disciplinary incidents in elementary schools. If so, whether this outcome is a consequence of an SRO/police presence at elementary schools or a reduced base rate of adverse student incidents, or some complex interaction of both factors, however, remains unclear.

Table 6: Rates of School Reports of Student Disciplinary Incidents to Law Enforcement Agencies Over Time (2009–2010/2015–2016)

	2009-2010		2015-2016	
	Mean	N (raw)	Mean	N (raw)
<i>Elementary Schools:</i>				
Total num. recorded student discip. incidents	12.75	630	8.92	470
School rptd. one or more incident to pol. (1=yes)	0.44	630	0.30	470
Rate of school police rpts. (per 100) [all]	0.35	630	0.35	470
Rate of school police rpts (per 100) [non-viol.]	0.19	630	0.08	470
<i>Middle and High Schools:</i>				
Total num. recorded student discip. incidents	37.57	1,800	27.75	1,430
School rptd. one or more incident to pol. (1=yes)	0.85	1,800	0.76	1,430
Rate of school police rpts. (per 100) [all]	2.26	1,800	1.38	1,430
Rate of school police rpts (per 100) [non-viol.]	1.07	1,800	0.68	1,430

NOTES: Reported means derive from the SSOCS weighted data.

SOURCES: U. S. Dept. Educ., Nat'l Ctr. Educ. Statistics, 2015–2016 School Survey on Crime and Safety (SSOCS); U. S. Dept. Educ., Nat'l Ctr. Educ. Statistics, 2009–2010 School Survey on Crime and Safety (SSOCS-10).

Even though results in Table 6 suggest that threats to elementary school safety likely declined between the 2009–2010 and 2015–2016 school years, we remain mindful of the 2012 tragedy in Newton, CT, where semi-automatic gunfire in the Sandy Hook Elementary School claimed the lives of 26 individuals, including 20 six and seven year-old school children.¹⁷⁴ Insofar as such unfathomable tragedies can set into motion a series of expected and unexpected legal and policy outcomes, how such a horrific event (and others) may inform elementary school administrators going forward about initiating or enhancing a SRO/police presence at their schools remains unclear.

On the one hand, we could easily envision elementary schools electing to initiate or “beef-up” any pre-existing SRO/police presence if, perhaps, for no other reason than to help “send a message” or demonstrate that they are

¹⁷⁴ See, e.g., *Sandy Hook Shooting: What Happened?*, CNN (last visited Mar. 6, 2021), <https://www.cnn.com/interactive/2012/12/us/sandy-hook-timeline/index.html> [<https://perma.cc/UUZ2-EDCZ>].

“doing something” in terms of school safety.¹⁷⁵ Such a gesture may help allay public, parental, or schoolchildren’s concerns about safety and security at their elementary schools.¹⁷⁶ As well, to the extent that a general public safety risk (real or perceived) has, on net, increased over time, elementary school-age children, given their tender years, seem especially vulnerable to the consequences of any decay in school safety or increase in school crime or violence. Finally, to the extent that external dedicated funding exists for SRO/police for any participating schools,¹⁷⁷ we can also easily envision elementary schools electing to take on (or enhance) an SRO/police presence for the narrow purpose of gaining an “extra” set of adult hands to generally assist at a school rather than to address any objective school safety, crime, or security concerns.¹⁷⁸

Given how the elementary and non-elementary school contexts differ, we felt it prudent to look more closely at the elementary school context in isolation. To this end, we re-ran our basic logistic regression models (Table 3) on the subset of elementary schools. Interestingly, and as our findings in Table 7 make clear, what persists across all school levels is that increases in student disorder rates as well as enrollment correspond with systemic increases in the likelihood that an elementary school reported a student incident to law enforcement agencies. The major change—and surprise—is that in the elementary school setting, a school’s SRO/police presence does *not* correlate with the school’s reporting rate. Another surprise is that for elementary schools, a *decrease* in a school’s percentage of boys correlates with an *increase* in the school’s rate of law enforcement referrals. Our surprise flows from comparing this finding with numerous assertions in the scholarly and popular literatures about how school discipline policies and practices disproportionately disadvantage boys.¹⁷⁹

¹⁷⁵ See TRAVIS III & COON, *supra* note 95, at 85 (analyzing an array of reasons schools include SROs).

¹⁷⁶ See AARON KUPCHIK, *THE REAL SCHOOL SAFETY PROBLEM: THE LONG-TERM CONSEQUENCES OF HARSH SCHOOL PUNISHMENT* 28 (2016) (explaining that “SRO programs are very popular among parents, teachers, and school administrators” because “[t]hey offer a sense of comfort and security, provide a first-responder already on campus in case of emergency, and can advise school administrators on legal matters”); see also Monahan & Torres, *supra* note 81, at 2–3.

¹⁷⁷ See *supra* notes 103–106 and accompanying text.

¹⁷⁸ See CURRAN, FISHER, VIANO & KUPCHIK, *supra* note 69, at 27–28 (noting an array of reasons motivating schools’ decisions to include an SRO/police presence).

¹⁷⁹ See, e.g., Nancy E. Dowd, *What Men? The Essentialist Error of the ‘End of Men’*, 93 B.U.L. REV. 1205, 1216–22 (2013); Jayanti Owens, *Early Childhood Behavior Problems and the Gender Gap in Educational Attainment in the United States*, 89 SOC. EDUC. 236, 253–54 (2016); Camera, *supra* note 19. See generally CHRISTINA HOFF SOMMERS, *THE WAR AGAINST*

Table 7: Logistic Regression Models of Whether an Elementary School Reported a Student Discipline Incident to a Law Enforcement Agency

	(1)	(2)	(3)
SRO/police at sch. (1=yes)	1.36 (0.29)	1.36 (0.33)	---
Total SRO/police at school		---	1.12 (0.14)
School student:teacher ratio		1.00 (0.02)	1.00 (0.02)
School student mobility % (in/out)		1.00 (0.01)	1.00 (0.01)
School urban. scale (rural-to-urban)		1.21 (0.14)	1.20 (0.14)
School disorder report rate (per 100)		1.32* (0.15)	1.31* (0.15)
School area crime scale (lo-to-hi)		1.34 (0.30)	1.32 (0.30)
School student enrollment		1.00* (0.00)	1.00* (0.00)
Violent. incident report req. (1=yes)		1.03 (0.37)	1.03 (0.37)
Non-violent incident report req. (1=yes)		0.62 (0.18)	0.61 (0.18)
School poverty %		1.01 (0.01)	1.01 (0.01)
School nonwhite %		1.00 (0.01)	1.00 (0.01)
School Black %		0.99 (0.01)	0.99 (0.01)
School male %		0.98* (0.01)	0.98* (0.01)
School district mean per pupil spending		1.00 (0.00)	1.00 (0.00)
Constant	0.37** (0.05)	0.26 (0.23)	0.28 (0.25)
Pseudo R ²	0.00	0.11	0.10
N (raw)	470	460	460

NOTES: Whether a school reported a student disciplinary incident to law enforcement agencies (1=yes). Robust standard errors, clustered on school district, in parentheses. The models were estimated using the "logistic" command in Stata (v.16.1) and used SSOCS weighted data. * $p < 0.05$; ** $p < 0.01$.

SOURCES: U.S. Dept. Educ., Nat'l Ctr. Educ. Statistics, 2015–2016 School Survey on Crime and Safety (SSOCS); U.S. Dept. Comm., Census Bureau, 2016 Public Elementary-Secondary Education Finance File (2016).

When we transition to more granular analyses of school referral rates (Table 8), we find that for elementary schools, once again, nothing about the magnitude of a school's SRO/police presence statistically corresponds with a school's reporting rate. We also note that school enrollments influence recedes from statistical significance. Increases in school disorder rates, by contrast, continue to correlate with school referral rates in the expected direction, though not for non-violent incidents. Finally, the counter-intuitive (for us, anyway) finding that a *decrease* in an elementary school's percentage

BOYS: HOW MISGUIDED FEMINISM IS HARMING OUR YOUNG MEN (2000) (arguing that schools and their disciplinary policies and processes disadvantage boys more than girls).

of boys correlates with an *increase* in the school's reporting rate for all student disciplinary incidents persists.¹⁸⁰

Table 8: Fractional Response Regression Models of Elementary School Report Rates For All and Non-Violent Student Discipline Incidents to Law Enforcement Agencies

	<i>All Incidents</i>		<i>Non-violent Incidents</i>	
Total SRO/police at school	0.87	(0.18)	1.16	(0.18)
School student:teacher ratio	1.01	(0.03)	1.02	(0.02)
School student mobility % (in/out)	1.00	(0.01)	1.00	(0.01)
School urban. scale (rural-to-urban)	1.01	(0.13)	1.12	(0.23)
School disorder report rate (per 100)	1.21**	(0.04)	1.09	(0.05)
School area crime scale (lo-to-hi)	1.24	(0.34)	1.58	(0.44)
School student enrollment	1.00	(0.00)	1.00	(0.00)
Violent. incident report req. (1=yes)	0.38*	(0.18)	0.84	(0.64)
Non-violent incident report req. (1=yes)	1.20	(0.39)	0.59	(0.20)
School poverty %	0.99	(0.01)	1.01	(0.01)
School nonwhite %	1.00	(0.01)	1.01	(0.01)
School Black %	1.00	(0.01)	1.00	(0.01)
School male %	0.96**	(0.01)	0.99	(0.01)
School district mean per pupil spending	1.00	(0.00)	1.00	(0.00)
Constant	0.06	(0.07)	0.00**	(0.00)
Pseudo R ²	0.16		0.05	
<i>N (raw)</i>	460		460	

NOTES: The dependent variables include the rate of elementary school reports for all student disciplinary incidents to law enforcement agencies and the rate of elementary 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. Dept. Educ., Nat'l Ctr. Educ. Statistics, 2015–2016 School Survey on Crime and Safety (SSOCS); U.S. Dept. Comm., Census Bureau, 2016 Public Elementary-Secondary Education Finance File (2016).

Finally, once we turn to our selection models—models that functionally condition out elementary schools that experienced no recorded student disciplinary incidents (and thus, by definition, had nothing to consider reporting to law enforcement agencies)—material differences between the

¹⁸⁰ Cf. BARRY C. FELD, *THE EVOLUTION OF THE JUVENILE COURT: RACE, POLITICS, AND THE CRIMINALIZING OF JUVENILE JUSTICE* 156 (2017) (reporting that female juvenile arrests rates “increased more or decreased less” than male juvenile arrests rates for simple and aggravated assault during the “Get Tough Era” from 1980 to 2011).

elementary and middle- and high school contexts emerge with even greater clarity. Specifically, as the top panel of Table 9 makes clear, none of the earlier findings persist. The consistent absence of any statistically significant relation between an elementary school's SRO/police presence and the elementary schools' law enforcement agency reporting practices, once combined with our prior results from our entire sample of schools, implies that the SRO/police influence in the middle and high school contexts is particularly acute.

Table 9: Selection Models of the Rate (per 100 students) of Elementary School Reports of All and Non-Violent Student Discipline Incidents to Law Enforcement Agencies and Total Recorded Student Discipline Incidents

	<i>All Incidents:</i>		<i>Non-violent Incidents:</i>	
	(1)	(s.e.)	(2)	(s.e.)
<i>Rate of school police reports (per 100 students)</i>				
Total SRO/police at school	-0.03	(0.10)	0.02	(0.03)
School student:teacher ratio	-0.01	(0.01)	0.00	(0.00)
School student mobility % (in/out)	0.01	(0.01)	0.00	(0.00)
School urban. scale (rural-to-urban)	-0.12	(0.09)	0.00	(0.02)
School disorder report rate (per 100)	0.37	(0.21)	0.01	(0.01)
School area crime scale (lo-to-hi)	-0.07	(0.17)	0.05	(0.04)
School student enrollment	-0.00	(0.00)	-0.00	(0.00)
Violent. incident report req. (1=yes)	-0.81	(0.49)	-0.02	(0.10)
Non-violent incident report req. (1=yes)	-0.01	(0.13)	-0.05	(0.03)
School poverty %	-0.01	(0.01)	0.00	(0.00)
School nonwhite %	0.01	(0.01)	0.00	(0.00)
School. Black %	-0.01	(0.01)	-0.00	(0.00)
School male %	-0.04	(0.03)	-0.00	(0.00)
School district mean per pupil spending	-0.00	(0.00)	0.00	(0.00)
<i>Constant</i>	3.79*	(1.77)	0.12	(0.17)
<i>Any student incident at school? (1=yes)</i>				
SRO/police at sch.(1=yes)	0.10	(0.20)	0.06	(0.20)
School student:teacher ratio	0.03	(0.02)	0.03	(0.02)
School student mobility % (in/out)	0.00	(0.01)	0.00	(0.01)
School urban. scale (rural-to-urban)	0.02	(0.11)	0.02	(0.11)
School disorder report rate (per 100)	56.23**	(8.31)	55.93**	(5.00)
School area crime scale (lo-to-hi)	0.48*	(0.24)	0.52*	(0.24)
School student enrollment	0.00*	(0.00)	0.00*	(0.00)
Violent incident report req. (1=yes)	0.56	(0.53)	0.61	(0.52)
Non-violent incident report req. (1=yes)	-0.22	(0.25)	-0.18	(0.26)
School poverty %	0.01	(0.00)	0.00	(0.00)
School nonwhite %	-0.01	(0.00)	-0.01	(0.00)
School Black %	-0.01	(0.01)	-0.01	(0.01)
School male %	0.00	(0.01)	-0.00	(0.01)
School district mean per pupil spending	-0.00	(0.00)	-0.00	(0.00)
<i>Constant</i>	-2.06*	(0.91)	-1.80*	(0.88)
Rho	0.30	(0.32)	-0.11	(0.26)
<i>N (raw)</i>	460		460	

NOTES: Model 1 explores all student disciplinary incidents; model 2 only non-violent incidents. For both models, the first-stage models whether a school experienced any recorded student disciplinary incidents. The second-stage models the rate (per 100 students) of school reports of all and non-violent student incidents to law enforcement agencies in models 1 and 2, respectively. Robust standard errors,

clustered on school district, in parentheses. The models were estimated using the "heckman" command in Stata (v.16.1) and SSOCS weighted data. * $p < 0.05$; ** $p < 0.01$.

SOURCES: U.S. Dept. Educ., Nat'l Ctr. Educ. Statistics, 2015–2016 School Survey on Crime and Safety (SSOCS); U.S. Dept. Comm., Census Bureau, 2016 Public Elementary-Secondary Education Finance File (2016).

CONCLUSION

When we submit two persistent and key school-to-prison pipeline claims to more recent SSOCS data and more granular empirical testing, what emerges, on balance, is persistent support for one claim and a notable deficit of direct support for the other. When it comes to either whether a school reports any student disciplinary incidents to law enforcement agencies or a school's rate of reporting, we find consistent and robust evidence—and across virtually all of our models—that a school's SRO/police presence exerts upward influence on schools' inclination to report and rate of reporting. While we did not undertake a precise or literal "replication" of prior studies, our core findings on these points generally comport with prior research on earlier SSOCS data sets.¹⁸¹

A second core school-to-prison pipeline hypothesis dwells on distributional claims. Specifically, many critics of an increasingly "legalized" approach to student discipline in schools argue that increases in school reporting, flowing from increases in schools' SRO/police presence, disproportionately involve students of color, boys, students from low-income households, and other vulnerable student sub-groups. As we noted previously, direct evidence on this specific claim from the SSOCS data set is simply not possible owing to the absence of any individual-level demographic data (*e.g.*, race/ethnicity, gender, socio-economic status) on the students whose conduct triggered a possible school referral to law enforcement agencies.

Despite the absence of more helpful student-level demographic data, our *school*-level findings do not hint at any obvious distributional concerns. Virtually all of the (few) instances where any of the traditional "distributional-concerning" variables achieved statistical significance involve gender.¹⁸² And, somewhat surprisingly, our results imply that a

¹⁸¹ For a brief discussion on replication studies see Michael Heise, *Beyond Replication: A Few Comments on Spruk and Kovac and Martin-Quinn Scores*, 61 INT'L. REV. L. & ECON. 1, 1 (2020); William H.J. Hubbard, *A Replication Study Worth Replicating: A Comment on Salmanowitz and Spamann*, 58 INT'L. REV. L. & ECON. 1, 1 (2019).

¹⁸² Only in one of our models (tbl.3, model 2) did we observe that an increase in the percentage of a school's students in poverty corresponds with an increase in the school's reporting rate of non-violent incidents.

decrease in a school's percentage of male students corresponds with an *increase* in school reporting rates. While our distributional-related findings generally comport with past empirical research using earlier SSOCS data sets, our findings remain somewhat at odds with received popular wisdom.¹⁸³

Because elementary schools strike us as sufficiently different than middle and high schools, especially when it comes to school safety and student discipline matters, we explored the elementary school context further. What we find is that our initial results underscoring the influence of an SRO/police presence on schools' likelihood of referring student incidents to law enforcement agencies recede when we limit our analyses to elementary schools. What may help account for this particular finding includes a comparatively lower base rate of recorded student disciplinary incidents (their lower frequency and, we presume, lesser severity) in elementary schools.

Going forward, future research on these and other, related school-to-prison pipeline claims would benefit from improved individual-level data, especially as it relates to the individual students whose conduct triggered a possible school referral to law enforcement agencies. Another current data deficit relates to information on the criminal justice outcomes for those students whose conduct triggered a school referral to law enforcement agencies. While it is certainly plausible to assert that *any* adverse interaction between a student and a law enforcement agency is, on balance, negative, more granular data on the formal legal dispositions of these interactions would provide helpful information for a broader sweep of related research questions.

We close by emphasizing the complexity of this issue, the increasingly 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, schools. While such decisions will inevitably involve some degree of political calculation, surrendering these 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.¹⁸⁴

¹⁸³ See, e.g., George, *supra* note 11, at 494 (“[C]hildren of color and low-income children . . . are disproportionately targeted for referral and arrest by police in schools.”).

¹⁸⁴ For a similar admonition see Michael Heise, *Following Data and a Giant: Remembering Ted Eisenberg*, 100 CORNELL L. REV. 8, 9 (2014).