



**BROOKLYN
DEFENDER
SERVICES**

TESTIMONY OF:

**Keren Farkas – Supervising Attorney, Education Unit
*BROOKLYN DEFENDER SERVICES***

Presented before

**The New York City Council Committees on Public Safety
Oversight Hearing on NYPD's School Safety's Role and
Efforts to Improve School Climate**

November 21, 2017

My name is Keren Farkas and I am the Supervising Attorney of the Education Unit at Brooklyn Defender Services (BDS). BDS provides multi-disciplinary and client-centered criminal, family, and immigration defense, as well as civil legal services, social work support and advocacy, for over 30,000 clients in Brooklyn every year. I thank the Committee on Public Safety for holding this hearing and for providing us with the opportunity to testify.

BDS' Education Unit provides legal representation and informal advocacy to our school-age clients. All of our clients are involved with the criminal legal or child welfare systems. A significant percentage are "over-age and under-credited," and have been retained at least one grade. More than half of our clients are classified as students with disabilities. Nearly all of our teenage clients report at least one school suspension, oftentimes between two

and six. As a legal and social work team, we work to improve our clients' access to education. A significant portion of our advocacy relates to school discipline, special education, school reentry from incarceration and suspension, and enrollment in credit recovery and High School Equivalency programs

BDS commends the City Council for its continued attention to policing and discipline practices in our city's schools. Since 2011, the Student Safety Act has provided invaluable insight into school practices, revealing the use of punitive discipline and police involvement at schools that, although lessening overall, continues to disproportionately impact students of color and students with disabilities. Confronted with the data from that law, city agencies, namely the DOE and NYPD, are allocating more resources to school climate reform. Although we are encouraged by the recent investments in pilot positive school-wide programs and school-based mental health services, we believe that all of our city's schools – especially those presenting with the highest rates of suspension, calls to EMS, and arrests – need access to models, such as restorative justice practices and collaborative problem solving, that can positively address student misbehavior and lessen reliance on police. Ultimately, children should never be placed in handcuffs or be subjected to interruptions in schooling as punishment.

More School Safety Officers and More Metal Detectors are Not the Answer

BDS shares the Council's deep concern about any violence in schools. We represent thousands of school-age youth every year and many on our staff are public school parents. However, we firmly believe that school safety officers often function to escalate disciplinary conflicts in schools, rather than de-escalating situations and making the school environment safer for all. We believe that all steps towards a positive school climate will come from increased funding, training and support for educators and school-based mental health clinicians, not criminal enforcement responses.

Keeping schools safe is a uniformly shared objective; where people diverge is how to achieve it. BDS strongly believes that increased police presence and metal detectors at school are not the solution. In fact, we believe that such efforts undermine school safety. School policing has not been found to prevent school violence.¹ Research actually demonstrates that police presence and metal detectors can significantly decrease a student's perception of safety at school and, in turn, lead them to make unsafe choices to protect themselves.² Further, school policing criminalizes common adolescent behavior, exposing young people to the criminal legal system, making them more susceptible to future contacts and the litany of collateral consequences.³

¹ See, e.g., Advancement Project, *A REAL FIX: THE GUN-FREE WAY TO SCHOOL SAFETY* (2013).

² See, e.g., Matthew T. Theriot & John G. Orme, *School Resource Officers and Students' Feelings of Safety at School*, 14 *YOUTH VIOLENCE & JUV. JUSTICE* 130-146 (2016).

³ See, e.g., Trevor Fronius, Sarah Guckenburg & Anthony Petrosino, *Policing Schools Strategies: A Review of the Evaluation Evidence*, 8 *J. MULTIDISCIPLINARY EVALUATION* 80-101 (2012).

Beyond its questionable efficacy in deterring school violence, a strong law enforcement presence sets a tone of distrust in a school that is not conducive to learning. Student police interaction is linked to poor academic performance and school disengagement.⁴ The data mirrors our clients' experience. We regularly meet with young people grappling with the harmful cumulative impact of disruptions to their education due to punitive discipline and the tensions associated with law enforcement presences in schools. Repeated contacts with school safety agents at school, often for non-violent adolescent misbehavior, have damaged not only their attitudes towards school, but their attitudes about themselves and their potential.

I also urge the Council to put incidents of school violence into context. Most incidents of student misbehavior do not involve weapons or guns making shootings or incidents involving dangerous weapons are extremely rare. Adolescent behavior, including misbehavior, is a function of immaturity, disability, mental health, trauma, bullying -- all of which are not issues even the most well-meaning, thoughtful school safety agent is prepared to address. Likewise, they are better addressed by a restorative/preventive approach.

Training Trusted School Staff in Crisis De-Escalation & Restorative Justice Is the Answer

Our city's schools need to shift to a culture where school staff, not police, take the lead in addressing and preventing student misbehavior. That shift requires a thoughtful and systematic financial investment and philosophical commitment to whole-school approaches that promote positive school climates. When schools utilize preventive, restorative approaches that focus on conflict resolution and diffusing problems early, there is an increase in both student social emotional and academic growth.⁵ Research shows that comprehensive, consistent implementation of approaches, such as conflict resolution and restorative justice, is also associated with positive teacher-student and student-student relationships, vital indicators of a school culture that can foster learning and safety.⁶ The programs are also linked with a reduction in school violence.⁷ Increasing the amount of guidance counselors and school based mental health clinicians has similarly been associated with the same benefits to school climate and student safety.⁸ These are the resources our city's students deserve.

⁴ See, e.g., Marilyn Armour, *Restorative Practices: Righting the Wrongs of Exclusionary School Discipline*, 50 U. RICHMOND L. REV. 999 (2016).

⁵ Thalia Gonzalez, *Keeping Kids in Schools: Restorative Justice, Punitive Discipline, and the School to Prison Pipeline*, 41 J.L. & Educ. 281 (2012).

⁶ Anne Gregory & Dewey Cornell, *Authoritative School Discipline: High School Practices Associated With Lower Bullying and Victimization*, 102 J. Educational Psychology 483-496 (2010).

⁷ David R. Karp & Beau Breslin, *Restorative Justice in School Communities*, 33 YOUTH & SOCIETY 249-72 (2001).

⁸ Randall Reback, *Schools' Mental Health Services and Young Children's Emotions, Behavior, and Learning*, 29 J. POLICY ANALYSIS & MANAGEMENT 698-725 (2010).

Notably, these approaches are found to decrease future conflict, and do so more effectively than police intervention.⁹ This change is possible because the techniques actually teach students skills about conflict resolution and critical thinking, which they can draw upon when they will undoubtedly face future disagreements with others. We must not forget that children and adolescents still have developing brains. All of our clients have also experienced trauma and/or poverty that have complicated their development of coping skills. A significant portion of our clients also have emotional disabilities. When schools rely so heavily on school safety agents to address discipline in lieu of positive behavioral approaches, we are not only missing opportunities to instill tools to support their positive development, we can exacerbate the underlying behavioral or mental health challenges.

Client Stories

Unfortunately, we continue to hear instances where School Safety Agents (SSA) unnecessarily insert themselves in situations, or school staff reflexively call upon SSA's to intervene. Recently, a teenage client with known mental health needs did not want to speak with a school administrator and started to walk away. Seven SSA's responded. A well-trained educator, guidance counselor or social worker could have more appropriately addressed and deescalated that situation. Another teenage client had a disagreement with a school official and raised her voice. Three SSA's responded and escorted her to the Assistant Principal's office. In several instances with Kindergarten and 1st grade students with known emotional disabilities, schools have called SSAs and the police to restrain the children following a tantrum.

In these situations, and the many similar ones we see clients experiences, with the right training and staffing, the school could have responded to the situation without police involvement. We believe, and the data affirm, that police responses are comparatively rare or even non-existent in schools with more privileged populations.¹⁰ For instance, with training in Therapeutic Crisis Intervention in Schools (TCIS) or an effective behavior intervention plan, the schools could have used positive practices to help the young children manage their behavior. With the teenage students, they could have utilized guidance interventions, such as restorative circles, where both parties could actively participate in addressing and repairing the harm. By doing so, both the harmed and the harmer can feel valued and learn perspective-taking, empathy, and taking responsibility.¹¹ Instead, when utilizing punitive measures, we alienate the harmer, often resulting in school disengagement – a reality we repeatedly see for our clients.

⁹ Jason P. Nance, *Dismantling the School-to-Prison Pipeline*, 48 ARIZ. STATE L. J. 313 (2016).

¹⁰ American Civil Liberties Union, *BULLIES IN BLUE: THE ORIGINS AND CONSEQUENCES OF SCHOOL POLICING* (2017), available at https://www.aclu.org/sites/default/files/field_document/aclu_bullies_in_blue_4_11_17_final.pdf.

¹¹ Trevor Fronius et al, *RESTORATIVE JUSTICE IN U.S. SCHOOLS: A RESEARCH REVIEW*, February 2016, available at https://jprc.wested.org/wp-content/uploads/2016/02/RJ_Literature-Review_20160217.pdf.

School Segregation and School Climate

We also urge the Council to consider how rampant school segregation may be impacting school climate, school discipline, and access to therapeutic or restorative responses to problematic behavior. The Civil Rights Project of the University of California, Los Angeles issued a report in 2014 finding that New York City has one of the most segregated school systems in the country, and that New York State has the highest school segregation rates.¹² Ample research has confirmed a connection between race and school discipline, with Black students as much as six times more likely to be suspended as compared to their white counterparts.¹³ Relatedly, certain public schools with wealthier student populations bring in donor-driven Parent-Teacher Association (PTA) budgets of more than a million dollars, allowing for substantial discretionary spending on a variety of enrichment programs and activities, while others struggle to fundraise at all.¹⁴ This dynamic undoubtedly contributes to inequality in school discipline. Notably, both of the wealthy Upper West Side elementary school featured in *The New York Times* article on wealthy PTAs had zero student removals in 2015, 2016, and to date in 2017, while a nearby elementary school serving many children who live in public housing (PS 191) reported 38, according to DOE data.

Policy Recommendations:

The City Council can play a critical role in fostering safer and more supportive school environments. We recommend that the Council enact many of the reforms called for by the Mayor's Leadership Team on School Climate and Discipline. We focus on four today.

1. Reduce law enforcement presences in schools

We encourage the City Council to reduce the presence of school safety agents and metal detectors in schools and reallocate the funds to positive behavioral approaches. Research not only indicates that law enforcement presence does not create safer schools; it can detract from a positive school climate and student's social emotional and academic growth. Moreover, there are more effective methods that require increased funding.

2. Expand positive whole-school approaches to address student behavior

¹² John Kucsera & Gary Orfield, *NEW YORK STATE'S EXTREME SCHOOL SEGREGATION* (The Civil Rights Project at UCLA 2014), available at <https://www.civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/ny-norflot-report-placeholder/Kucsera-New-York-Extreme-Segregation-2014.pdf>.

¹³ Alia Wong, *How School Suspensions Push Black Students Behind*, *THE ATLANTIC*, Feb. 8, 2016, available at <https://www.theatlantic.com/education/archive/2016/02/how-school-suspensions-push-black-students-behind/460305/>.

¹⁴ Kyle Spencer, *Way Beyond Bake Sales: The \$1 Million PTA*, *N.Y. TIMES*, June 1, 2012, available at <http://www.nytimes.com/2012/06/03/nyregion/at-wealthy-schools-ptas-help-fill-budget-holes.html>.

We ask the city council to expand funding in whole-school positive methods, such as restorative justice practices, collaborative problem solving and therapeutic crisis intervention. To effectively implement and realize the associated positive benefits in school climate, schools staff need training, ongoing professional development and full-time staff to facilitate whole-school adoption of the approaches and ensure staff receive ongoing coaching.

We are encouraged by the pilot programs, but want to emphasize that there are many more schools that require this investment to counter punitive school discipline tactics and overuse of police. At BDS, we repeatedly encounter the same schools for inappropriate and overly punitive responses to student misbehavior, but none of them are on the current list of pilot schools.

3. Expand access to school-based and school-linked behavioral health services

Particularly for our students facing the toxic stress of poverty, access to school-based or school-linked behavioral health supports is critical to student success and school safety. We are encouraged by Thrive NYC and the Mayor's office's attention to mental illness, its impact on New Yorkers, and the need to invest in resources, such as a continuum of mental health resources for our city's schools. More funding, however, is needed to carry out the thoughtful recommendations of the Mayor's Leadership Team on School Climate and Discipline and provide the range of staffing and services needed to ensure our city's schools can address the root cause of misbehavior, starting with the highest need schools. We urge the city to expand financial investments to ensure our schools, particularly our highest need schools, have access to behavioral health consultants and on site mental health clinicians.

4. Increase the number of school-based guidance counselors and licensed social workers

Guidance counselors can serve a critical role supporting students and implementing guidance interventions, including restorative practices, as an alternative to punitive discipline. Clinically trained staff, particularly LCSW's, can serve an additional important role — particularly working with youth who have experienced trauma, which is tragically very common amongst students in our highest-need schools. Beyond supporting individual students, guidance and social work staff can facilitate successful implementation of whole school reform and supporting all staff in the undertaking.

We urge the City Council to increase staffing and training for guidance counselors.

Conclusion

In short, we need to foster school culture that presumptively approaches *all* student misbehavior as teachable moments. We urge the city to support this goal by passing legislation to support schools to do so without police intervention.

Thank you for your consideration of our comments. If you have any questions, please feel free to reach out to Andrea Nieves in my office at 718-254-0700 ext. 387 or anieves@bds.org.